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**SUBMISSION ON STANDARDISED TOBACCO PRODUCTS AND PACKAGING
DRAFT REGULATIONS**

To: Standardised Tobacco
Tobacco Control Team
Ministry of Health
PO Box 5013
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Details of Submitter: The Southern District Health Board

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Our Reference: 16May12

Date: 13 July 2016

Introduction

Southern District Health Board (Southern DHB) presents this submission through its public health service, Public Health South. This Service is the principal source of expert advice within Southern DHB regarding matters concerning Public Health. Southern DHB has responsibility under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities. Additionally, there is a responsibility to promote the reduction of adverse social and environmental effects on the health of people and communities. With 4,250 staff, we are located in the lower South Island (South of the Waitaki River) and deliver health services to a population of 306,500.

Public health services are offered to populations rather than individuals and are considered a “public good”. They fall into two broad categories – health protection and health promotion. They aim to create or advocate for healthy social, physical and cultural environments.

This submission provides feedback on the consultation document for Standardised Tobacco Products and Packaging Draft Regulations. Our submission follows the format of the questions posed in the consultation document.

Submission form

Standardised Tobacco Products and Packaging Draft Regulations

Details

Name and designation:

Company organisation
name and address:

Public Health South, Southern DHB, Private Bag 1921, Dunedin 9054

Contact phone number and
email address:

Confidentiality

Please keep my comments confidential:
(reasons including identity of specific comments if applicable)

☐ Yes

This request can only be actioned if your reasons satisfy [Official Information Act](#) criteria.

Declaration of any tobacco industry links or vested interests

As a party to the global tobacco control treaty, the World Health Organization Framework Convention on Tobacco Control, New Zealand has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To help meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. The Ministry will still carefully consider responses from the tobacco industry and from respondents with links to the tobacco industry, alongside all other submissions. Please provide details of any tobacco company links or vested interests below.

The Southern DHB has no direct or indirect links to the tobacco industry or any vested interests.

Additional information

I am, or I represent, an organisation that is based in:

☒ New Zealand ☐ Australia ☐ Other (please specify):

I am, or I represent, the following category or categories: (tick all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Overseas manufacturer | <input type="checkbox"/> New Zealand-based manufacturer |
| <input type="checkbox"/> Importer | <input type="checkbox"/> Exporter |
| <input type="checkbox"/> Retailer | <input type="checkbox"/> Government |
| <input type="checkbox"/> Wholesaler or distributor | <input checked="" type="checkbox"/> Institution (eg, university, hospital) |
| <input type="checkbox"/> Member of the public | <input type="checkbox"/> Non-governmental organisation |
| <input type="checkbox"/> Other (please specify): | |

Please return this form to:

Email: standardisedtobacco@moh.govt.nz

Consultation questions

Although the submission form includes blank spaces for answering the questions, these do not set a limit for the length of your responses and you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

Size and quantities of tobacco products

- 1 Do you agree with the proposals to limit the number of cigarettes in a pack to either 20 or 25, and the amount of loose tobacco to 30 grams or 50 grams?

☐ Yes

☒ No

Please outline your reasons.

The SDHB will support regulations that stipulate 20 cigarettes in a packet or 30g of loose tobacco only.

We recognise that a minimum pack will discourage the uptake of smoking by youth, and for those already smoke to continue smoking because smaller quantities mean tobacco is more affordable.¹

Furthermore we know that the annual tax increases have made a difference to some smokers prompting them to make stop smoking attempts. Numbers for people contacting Quitline increased at the same time every year due to the higher price of tobacco.²

We also know that tobacco manufacturers use varying pack sizes as a way of countering the effect of increased excise tax.³ By allowing more cigarettes per pack, i.e. 21 or 26 sticks, the consumer believes they are getting more for their money.

Therefore, the SDHB does not support larger pack sizes (i.e. packs of 25 cigarettes and 50g of loose tobacco) or a variable range of pack sizes, as this could encourage New Zealand smokers to purchase these larger quantities due to the perception that it is better value.

- 2 Do you agree with the proposals to restrict the dimensions of cigarette sticks by setting minimum and maximum length and diameter?

☒ Yes

☐ No

Please outline your reasons.

¹ Scollo, M., Zacher, M., Coomber, K., & Wakefield, M. 2015. *Use of illicit tobacco following introduction of standardised packaging of tobacco products in Australia: results from a national cross-sectional survey*. Tobacco Control 24: ii76-ii81.

² ASH NZ. 2016. The importance of tobacco tax increases: Key Evidence. Available online at <http://www.ash.org.nz/wp-content/uploads/2016/01/ASH-website-briefing-paper.pdf>

³ Scollo, M., Zacher, M., Coomber, K., & Wakefield, M. 2015. *Use of illicit tobacco following introduction of standardised packaging of tobacco products in Australia: results from a national cross-sectional survey*. Tobacco Control 24:ii76-ii81.

The SDHB believes that it is prudent to restrict the dimensions of cigarette sticks as a follow on from the standardised packaging. It will be more difficult for consumers to determine a brand by the size of a cigarette or cigarette pack if all brands are the same length and diameter. This will also remove some of the misconceptions that longer cigarettes are better value, and that slimmer cigarettes are more attractive to younger females.⁴

- 3 Do you agree with the proposals setting minimum and maximum height, width and depth of cigarette packs, consistent with the limits on the number and size of the cigarette sticks they contain?

☒ Yes

☐ No

Please outline your reasons.

As mentioned in our comments for Question 2, having restrictions on the sizes of cigarette packs will ensure that no tobacco company gets preferential treatment over another. Standardising pack size will also ensure consumers are not able to determine the difference in brand.

- 4 Do you agree with the proposal that loose tobacco should be sold only in rectangular pouches made of soft plastic?

☒ Yes

☐ No

Please outline your reasons. If you do not agree, what alternatives do you suggest?

The soft plastic pouches are already commonly used to package loose tobacco. It would be prudent to standardise the size and shape so that there is no way to determine the brand without looking at the small print on the pack. By using other shapes, i.e. hexagonal, cylindrical and made from other mediums such as wood, or metal could potentially differentiate between brands which is not the idea of standardised packaging.

- 5 Do you agree with the proposals to standardise cigar packaging, including the proposal to limit the number of cigars that may be sold in a pack?

☒ Yes

☐ No

Please outline your reasons. If you do not agree, what alternatives do you suggest?

For standardised packaging to be effective in reducing the numbers of New Zealanders who smoke, then all tobacco products should be regulated in a consistent manner, including cigars. The SDHB believe that cigars should be in standardised packaging and a limit imposed per pack, i.e. five cigars. As mentioned in our response to Question 1, tobacco products that are accessible in small amounts are cheaper to purchase which could tempt someone making a quit attempt to make a spur of the moment purchase.

⁴ Hoek, J., & Robertson, C. 2015. *How do young adult female smokers interpret dissuasive cigarette sticks?* Journal of Social Marketing, 5(1):21-39.

- 6 Should the regulations include a general provision to set a minimum size for all tobacco packages, including cigar packages?

☐ Yes

✓ No

Please outline your reasons below.

It's a good idea in theory, but the SDHB believes that it would be very difficult to include cigar packages in the provisions to set a minimum size for all tobacco packages. This is due to the variance in cigar size, i.e. small like a cigarillo or cigarette, or the bigger Cuban type cigars which are considerably larger.

Currently, there are some small cigars i.e. Wee Willems that can be purchased singly for around \$2.50 in New Zealand. This is an easy option to buy for those on a low income or someone who is wanting to make a quit attempt and thinks that buying one cigar is better than purchasing an entire packet.

An alternative would be to potentially regulate how the manufacturers produce cigars for New Zealand, i.e. have a minimum and maximum size stipulated in the regulations so they would be the same size as a regular cigarette. However, if that is not possible then having a minimum size pack for other tobacco products would be beneficial in order to allow for the health warnings and accompanying images.

- 7 Do you have any other suggestions for regulatory requirements to standardise the shape and size of tobacco products and tobacco product packages?

☐ Yes

✓ No

If yes, please provide detail below.

Permitted markings on tobacco packages

- 8 Do the regulations need to allow for any other anti-counterfeiting marks?

✓ Yes

☐ No

Please provide detail and reasons below.

New Zealand does not have a large problem with counterfeiting tobacco currently. However, to safe guard against the possibility of it becoming a problem in the future then the SDHB agrees to allow for anti-counterfeiting marks. The ability to track and trace tobacco products would be beneficial long term and supportive of other countries who face this issue. We supported the proposal for New Zealand to be a party to the Protocol to Eliminate Illicit Trade in Tobacco Products because other countries have illegal tobacco products.

- 9 If additional anti-counterfeiting marks are to be allowed, how could these be regulated to ensure they do not communicate to consumers or have any effect that might undermine the intention of standardised packaging?

Please provide detail below.

Additional anti-counterfeiting marks could supplement the intention of standardised packaging by using marks that are the same for all brands so consumers can not differentiate between them.

- 10 Do the regulations need to permit any other marks or features on tobacco product packages to allow for automated manufacturing and packaging processes?

☒ Yes

☐ No

Please provide detail and reasons below.

Only if it is unavoidable due to automated manufacturing and packaging processes. Otherwise features including bevelling around the edges of the boxes or embossing dots/patterns on the internal liners of boxes could be perceived as differentiating between high and low value brands. This is yet another way to manipulate the market by tobacco companies. These types of features may aid in the functionality of the packaging, i.e. allowing the consumer to have a better grip on the box when holding, or being able to hold on to the internal lining when taking one cigarette out of the box so that no extras are pulled out by mistake.⁵

- 11 Should the regulations allow for the country of manufacture to be printed on tobacco products or packages?

☒ Yes

☐ No

Please provide detail and reasons below.

The SDHB agrees that the country of manufacture is allowed to be printed on the band around cigars so that the consumer can be fully informed; just like most consumers of food products like to know the country of origin so they can make their decision based on that information. Regarding the addition of the manufacturer's name, contact details and identification codes on other tobacco product packages, the SDHB believes this may only be necessary to help prevent anti-counterfeiting or in case of a product recall.

Additional features to increase the effectiveness of standardised packaging

- 12 Are there any additional features within the scope of the regulation-making powers in the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill that might increase the effectiveness of standardising tobacco products and packaging? If so, what is the rationale and can you provide supporting evidence?

☒ Yes

☐ No

If yes, please provide detail below.

⁵ Ford, A. 2012. *The Packaging of Tobacco Products*. The Centre for Tobacco Control Research, University of Stirling. Accessible online at https://www.cancerresearchuk.org/sites/default/files/cancer_research_uk-funded_report_on_tobacco_packaging_written_by_the_centre_for_tobacco_control_research.pdf

Dissuasive cigarettes

A recent study revealed that alongside the implementation of standardised packaging, changing the colour of the cigarette enclosing paper from white (or white with imitation cork filter tip) to an unattractive colour that is associated with dirt and filth could further decrease the appeal of smoking. Cigarette sticks that have a message printed on the enclosing paper such as “minutes of life lost” or “smoking kills” was found to be even more of a deterrent.⁶ The regulations allow for a printed code for the purpose of tracking and tracing so the addition of a dissuasive message on the cigarette enclosing paper should be feasible.

Health warnings

The current health warning images in use are not taken very seriously by young people because they believe that the risks are for people who have been smoking for a long period of time. They may be affected more by images of children and it would also help to update the images periodically.⁷

Emphasise stop smoking information

The information on how to access stop smoking support needs to be clear and obvious on the packs as it may encourage people to give up smoking and be seen as a positive idea on an otherwise unattractive, standardised tobacco package.

Only allow short descriptors for brand variants

Brand variants are a way of promoting tobacco to be more palatable or attractive. Generally speaking, ‘slims’ correlate to a more sophisticated, feminine cigarette, ‘menthol’ describes the flavour of the tobacco, ‘super king size’ suggests a larger cigarette stick, and ‘mild’ indicates that the tobacco is of lighter strength and potentially a healthier option. The following are variant descriptives currently on the market - master blend king size, fine cut blend, special filter, smooth blend, light menthol, super slims. By limiting the number of descriptive words, the marketing opportunity for tobacco companies to promote their brand is reduced.⁸

Other comment on content of draft regulations

If you wish to make any other comments on the content or coverage of the draft regulations, please provide detail below.

Thank you for the opportunity to provide feedback on the Standardised Tobacco Products and Packaging Draft Regulations consultation document.

Yours sincerely

⁶ Hoek, J., Gendall, P., Eckert, C., & Louviere, J. 2015. *Dissuasive cigarette sticks: the step in standardised ('plain') packaging?* Tobacco Control 2015(0):1-7.

⁷ Hoek, J. & Gendall, P. 2016. *New Zealand can lead the world in tobacco control: plain packaging 2.0*. Available online at <https://blogs.otago.ac.nz/pubhealthexpert/2016/03/10/new-zealand-can-lead-the-world-in-tobacco-control-plain-packaging-2-0/>

⁸ *Ibid.*



Imperial Tobacco New Zealand Limited

Submission to

Ministry of Health

On the

Standardised Tobacco Products and Packaging Draft
Regulations Consultation

29 July 2016

Introduction

Imperial Tobacco New Zealand (“ITNZ”) welcomes the opportunity to respond to the Ministry of Health’s (the “Ministry”) consultation on Standardised Tobacco Products and Packaging Draft Regulations (the “Draft Regulations”).

ITNZ is a subsidiary of Imperial Brands PLC, which is the world’s fourth largest international tobacco company and Van Nelle Tabak Nederland B.V. which is a Netherlands based company within Imperial Brands PLC, which owns the trade mark rights effective in New Zealand. Imperial Brands has sales in over 160 countries worldwide and is the world leader in the premium cigar, fine-cut (roll-your-own) tobacco and rolling paper sectors.

ITNZ and Van Nelle have approximately 156 registered trademarks in New Zealand which cover brand names, signatures, numerals, devices, pack designs, headings, labels and other aspects of packaging, which will be affected by the Smoke-free Environments (Tobacco Standardised Packaging) Amendment Bill (the “Bill”).

ITNZ is based in Petone and manufactures and distributes Imperial Tobacco’s products to the New Zealand market. ITNZ holds a 22% market share of the New Zealand tobacco market. Our brands include JPS, Horizon, West and Peter Stuyvesant cigarettes and Drum, Horizon, Pocket Edition, JPS and Riverstone loose tobacco. ITNZ also distributes Camel cigarettes on behalf of Japan Tobacco International.

ITNZ entered the New Zealand market in 1999 to address competition concerns and under the supervision of the New Zealand Commerce Commission (“NZCC”) who wished to maintain competition in the tobacco industry. The NZCC was concerned that a British American Tobacco (“BAT”) monopoly in the New Zealand market, resulting from BAT’s global merger with Rothmans, would substantially reduce competition.

As a result, Imperial Brands PLC (at the time Imperial Tobacco Group PLC) bought a portfolio of tobacco trademarks and a manufacturing plant at Petone from BAT. ITNZ are now New Zealand (and Australasia’s) last locally-producing tobacco manufacturer. Since our inception in 1999, we have developed into a truly Kiwi company, employing from the local community, trading and sourcing from over 100 local suppliers and businesses and exporting over 90% of our production to Australia. We employ over 200 people in New Zealand, and support a further 1400 New Zealand jobs through our suppliers and business partners. Last year ITNZ collected over \$450m for the Government in duties and other taxes.

ITNZ has previously stated its opposition to Plain/Standardised Tobacco Packaging, and that position remains unchanged on the basis that there was and remains unsubstantial evidence of its efficacy in achieving its principal policy objectives.

ITNZ wishes to engage constructively with the Government on matters of substantive policy so that quality regulatory decisions are made, and supports sound, evidence-based, reasonable and practicable regulation of tobacco products.

We are disappointed that we have not had the opportunity prior to the release of the consultation document to provide practical input to the draft Regulations based on our experience.

We note that the scope of this consultation is confined to the proposed requirements for standardised tobacco products and packages as set out in the exposure draft of the Regulations. The Ministry has stated in the consultation document that both the contents of the Bill and earlier policy decisions to standardise tobacco products and packaging which have been the subject of previous public consultation are outside the scope of this consultation. ITNZ believes that the proposed standardisation of tobacco products is unlawful and that these submissions are without prejudice to that.

We also note and agree with the Ministry of Health's position that there are views, evidence and information that only the tobacco industry can provide, which are important input to this consultation.

Our comments in this submission draw on our technical and practical expertise.

We seek to meet with the Ministry in order to provide further evidence in support of our submission.

Contact details

Name: [REDACTED]
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Executive Summary

The Ministry states that the aim of the standardised packaging amendment to the Smoke-free Environments Act is to standardise the appearance of tobacco products and tobacco product packaging to reduce their appeal and acceptability, make warning messages more effective and minimise false impressions about harmful effects.

In developing the proposals in the draft Regulation, the following principles have been applied:

- **Alignment** of New Zealand requirements with those applying in Australia as the starting point for standardised packaging, taking into consideration the requirements being introduced or proposed in other jurisdictions.
- **Effectiveness** – a preference for the strongest form of standardisation unless there is good reason to relax this or to vary it for New Zealand circumstances (including potentially strengthening the requirements)
- **Practicality** – a preference for simplicity without compromising effectiveness
- **Consistency** with New Zealand’s obligations and commitments.

In drafting the Regulations, the Ministry may have omitted to subject proposals wholly or equitably to the guiding principles, and inadvertently created unintentional consequences. We note a number of these concerns throughout our more detailed response.

However, ITNZ have significant concerns with the following substantive issues arising from proposals in the draft Regulations, and we submit that the Regulations be revised prior to their finalisation to incorporate these recommendations.

The first three matters below concern competition impacts. The Department has prepared recommendations on the basis of the “existing market”. Whilst the impacts of this are likely inadvertent, the dominance of the New Zealand market by one manufacturer sees this “existing market” approach resulting in manifestly and perverse anti-competitive outcomes. Where one competitor dominates, locking in existing market dynamics via regulation naturally advantages that competitor – with no resultant benefit to either consumers or the Government. We do not believe that this was the intention of the Government and hence submit that these draft Regulations in particular must be revised.

1. Tobacco Packages – Text or alphanumeric marking on tobacco package

The removal of the use of capitalisation is discriminatory against a single brand – JPS. It is anti-competitive for no reason. Even if the Government wishes to ban the use of capitalisation, the Regulations should “grandfather” existing brand names to avoid unfair competition impacts. We note that the draft Regulations protect the user of the ampersand symbol which primarily “grandfather’s” one particular brand.

Recommendation: Amend Regulation 9(c) to allow for capital letters, at least of existing brand names

2. Brand names - length

Limitation to 35mm discriminates against existing brands (including “Peter Stuyvesant” which is owned by ITNZ) providing unfair competitive advantage. Even if the Government wishes to limit brand name length, the Regulations should “grandfather” existing brand names to avoid unfair competition impacts.

Recommendation: Amend Regulation 27 to remove the 35mm restriction on length for the brand name (which must be on one line and no more than 14pt font)

3. Pack sizes

Limitation to 20 and 25 pack sizes discriminates against existing market offerings and strongly favours one competitor over others. If the Government believes that pack sizes will limit demand (even in the absence of any evidence of such in any jurisdiction worldwide), it should consider pack sizes with a greater variance than 5 sticks. It should consider 20s and 30s for cigarettes, and for FCT should consider a variance in pack sizes of 10g (ie. it should consider 30g and 40g for FCT).

Recommendations: Remove the restriction in Regulation 22 on the number of cigarettes in a pack. Alternatively, amend Regulation 22 to allow for pack sizes of 20 and 30.

Remove the restriction in Regulation 39 restricting the weight of a tobacco pack of loose tobacco. Alternatively, amend Regulation 30 to allow for pack sizes of 30g and 40g.

4. Coloured foil

The Regulations propose to step further than any other international jurisdiction by requiring ink to be applied to the inner foil lining of cigarette packets in the absence of any evidence as to effect. Inks applied to this medium will dislodge from the paper and will infiltrate the cigarettes – which is a clearly unacceptable outcome for consumers and is clearly an inadvertent negative impact.

Recommendation: Amend Regulation 25 to require linings to be silver foil with a white paper backing.

5. Health warnings

We note reference in the consultation document that before new Regulations are finalised, the Government will also make decisions on new health warnings and graphic

images to refresh and enhance the existing set of messages. Rotating sets of health warnings remove manufacturing efficiency with no discernible positive impact on consumers. We submit that a larger set of health warnings with no “set rotation” will have the same consumer impact whilst allowing manufacturing efficiency.

Recommendation: Urgent consideration be given to removing the requirement for annual changes between the two sets of health warnings and graphic images, and that there instead be one larger set of variations.

6. Timing

We note the haste with which the development of Regulations in tandem to the progression of the Bill appear to be occurring. It is necessary that the Ministry have an understanding of/and apply consideration to the timeframes for manufacturers and others involved in the supply chain to prepare and undertake implementation of the regulatory proposals as drafted. In analysing operational process timeframes for the manufacturing alone, we submit a period of 12 months for implementation. *(12 months is based on the assumption that finalised Graphic Health Warnings and message templates and schedules are available at the same time as when the Regulations are finalised).*

Recommendation: We ask for assurance that realistic time frames will be provided for the necessary changes to be made for compliance, and recommend that a realistic time frame is a period of 12 months from the date of finalisation of the draft Regulations (or from the date when finalised artwork templates are available to be provided by the Ministry (whichever is the latter)) to implementation.

Finally, we ask that the Ministry set up a process where implementation questions are addressed promptly and clearly, as this will be critical for an effective transition to the new regime, particularly for manufacturers. We note that such a process was both necessary and highly utilised in the Australian implementation process.

Detailed Submissions in response to Consultation Questionnaire

Size and quantities of tobacco products

1 Do you agree with the proposals to limit the number of cigarettes in a pack to either 20 or 25, and the amount of loose tobacco to 30 grams or 50 grams?

We understand that the proposal to limit pack sizes is intended to avoid marketing strategies based on unusual pack sizes or quantities. It arose out of discussions on retaining the minimum quantity restrictions, where the Ministry of Health supported possible additional restrictions on quantities. The consultation paper refers to concerns in relation to large quantities (40 or 50) or bonus sizes (21 or 26).

We are not aware of any evidence that different size packs have worked against the effectiveness of Plain/Standardised Packaging, for example by encouraging consumption (a point that appears in the Ministry's consultation document (page 9) but without any supporting evidence).

The Ministry has also prepared recommendations on the basis of the “existing market”. Whilst the impacts of this are likely inadvertent, the dominance of the New Zealand market by one manufacturer sees this “existing market” approach resulting in manifestly and perverse anti-competitive outcomes.

Limitation to 20 and 25 pack sizes for cigarettes and 30g and 50g for loose tobacco packs discriminates against existing market offerings and strongly favours one competitor over others.

We recommend that

- (i) The Regulations be amended to remove the proposed restriction of pack sizes.
- (ii) In the alternative, pack sizes in use as at 31 May 2016, and on a tobacco return, should be permitted.
- (iii) At the very least, if pack sizes are to be restricted we submit that the Ministry should consider pack sizes with a greater variance than 5 sticks. It should consider 20s and 30s for cigarettes (a 10 stick differential), and for loose tobacco should consider pack sizes of 30g and 40g (a 10g differential).

These sizes are already relatively common, and not so large, or of an unusual number, to fall within the scope of the concerns raised by the Ministry.

2 Do you agree with the proposals to restrict the dimensions of cigarette sticks by setting minimum and maximum length and diameter?

The Ministry has applied current common dimensions to arrive at the proposal to limit cigarettes to between 7mm and 9mm in diameter and no more than 95mm in length. It is intended that this will prevent the sale of different cigarette sizes (eg. extra long and slim sticks) in an attempt to appeal to particular market segments.

As per our response in Question 1, ITNZ's primary concerns in opposing this proposal are regarding restricting competition and consumer choice.

3 Do you agree with the proposals setting minimum and maximum height, width and depth of cigarette packs, consistent with the limits on the number and size of the cigarette sticks they contain?

As per points 1 and 2 above, ITNZ's primary concerns in opposing this proposal are regarding restricting competition and consumer choice.

4 Do you agree with the proposal that loose tobacco should be sold only in rectangular pouches made of soft plastic?

For the purposes of simplification and standardisation the draft Regulations only permit rectangular (although as we are speaking of a 3-dimensional product, reference should be to rectangular-shaped) pouches made of soft plastic. While we are not opposed to this proposal, we do not believe it is necessary.

As noted within the Ministry's consultation document (page 10), while current regulations accommodate a wider range of packages, most loose tobacco for hand-rolling cigarettes is sold in plastic pouches of similar size and shape.

5 Do you agree with the proposals to standardise cigar packaging, including the proposal to limit the number of cigars that may be sold in a pack?

We endorse and support the submission of Pacific Cigars on matters related to those products.

ITNZ do not market or distribute Imperial Brands range of cigars in New Zealand. However we submit that cigars, while a tobacco product, are of a nature where consumption behaviour is entirely different to that of cigarettes or loose tobacco. The long sell through period on cigars as opposed to other tobacco products will undoubtedly be particularly problematic and complex for a manufacturer/importer/retailer to comply with the proposed Regulations.

Accordingly, we oppose the proposals for the standardisation of cigar packaging and limitations of pack sizes and recommend that regulation should continue as per the status quo.

6 Should the Regulations include a general provision to set a minimum size for all tobacco packages, including cigar packages?

While we are not opposed to this proposal, we do not believe this is necessary.

As noted in the Ministry's consultation paper (page 10 note 2) Australia's legislation includes a general requirement for loose tobacco pouches, cigar packs and all other tobacco packages to be at least 85mm long and 55mm wide. This provision ensures the packages are of sufficient size to clearly display mandatory health warnings and images. The draft Regulations do not currently propose a similar provision for New Zealand because it would appear this may be unnecessary alongside the other restrictions on tobacco packages and contents. We would agree with that view.

Further, for production and manufacturing efficiencies, it is realistic to expect that similar, if not the same dimensions, of packs in Australia would likely be used by manufacturers across both markets.

7 Do you have any other suggestions for regulatory requirements to standardise the shape and size of tobacco products and tobacco product packages?

We note that Regulation 20, relating to the dimensions and features of cigarettes is very prescriptive and restrictive, with the exception of 20 (e) where a cigarette's filter tip, if any, is limited only to be coloured plain white or imitation cork.

Given the Ministry's concerns of addressing attempts of tobacco products to appeal to particular market segments, we would have expected similar prescriptive and restrictive measures be applied to filter requirements, especially where increasing filter innovations have a higher attractiveness to a younger market demographic.

We would support expanding the standardisation of filters to be more prescriptive, such as being solid and of mono-acetate only.

Permitted markings on tobacco packages

8 Do the Regulations need to allow for any other anti-counterfeiting marks?

Draft Regulation 19 provides for a printed code for tracking and tracing tobacco products. These must comply with Regulation 9 (text or alphanumeric markings on a tobacco product) and must not convey any other information to the consumer.

Such codes can be simple time and date stamps which assist with track and trace throughout the supply chain.

However, ITNZ has previously made submissions to the Ministry on its consultation on “New Zealand and the Protocol to Eliminate Illicit Trade in Tobacco Products”. ITNZ supported New Zealand acceding to the protocol, and should this occur, there needs to be flexibility within the Regulations to accommodate for globally aligned anti-counterfeit marks.

As noted in the Ministry’s consultation document (page 12), Australia’s regulations explicitly allow for covert marks that are not visible to the naked eye, and it would be beneficial in the view of future-proofing to include such a similar provision for New Zealand within these Draft Regulations.

9 If additional anti-counterfeiting marks are to be allowed, how could these be regulated to ensure they do not communicate to consumers or have any effect that might undermine the intention of standardised packaging?

We believe that additional anti-counterfeiting marks should be in compliance with internationally recognised standards and Regulation 19 of the draft regime.

10 Do the Regulations need to permit any other marks or features on tobacco product packages to allow for automated manufacturing and packaging processes?

It is our view and experience that other marks or features on tobacco product packages resultant of automated manufacturing and packaging processes are the exception rather than the norm.

An example of a mark used in the automated manufacturing and packaging process is a printer’s mark used for alignment and eye marks on the printing press and for sorting finished printed materials. The below pictures show the visibility of the marks during production, and which on a finished pouch (image 3), are neither overt nor negate the intent of the regime.

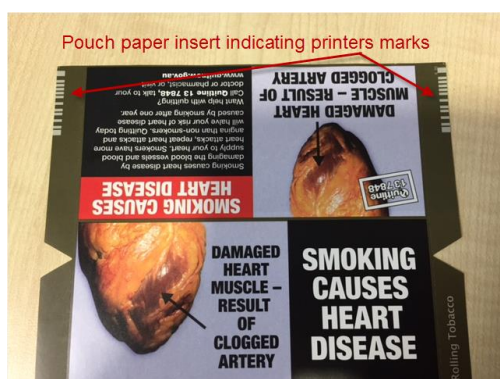


Image 1



Image 2



Image 3

Such allowances are practical and we submit that marks or features on tobacco packages to allow for automated manufacturing and packaging processes should be included within the Regulations.

11 Should the Regulations allow for the country of manufacture to be printed on tobacco products or packages?

We recommend that the Regulations should allow for the country of manufacture to be printed on tobacco products or packages along with other manufacturers details.

The Ministry has not demonstrated with any recourse to evidence how the inclusion of country of origin labelling would run contrary to the policy objectives of the Bill.

Country of origin labelling is implicitly supported by the Fair Trading Act 1986 as it can be used as a way to regulate consumer information (section 27).

In addition, it is our understanding that Customs has a preference for country of manufacture labelling and in recent years ITNZ has been requested by Customs enforcement staff to amend our packaging artwork to ensure country of origin labelling on our imported packs, cartons/outers and shippers is clearly visible and easily identified.

As such, we see country of origin/manufacture labelling as necessary information for consumers and Customs enforcement and recommend that it should be permitted in the Regulations.

Other comment on content of draft Regulations

The following comments are set out in order of Draft Regulations, rather than in ranking of importance. Please note/refer to our Executive Summary which highlights those matters in our submission which are of the most significant concern.

Part 1 – Provisions that apply to all tobacco products and packages

12 Regulation 8 – Smell of tobacco

Regulation 8 provides that the smell of manufactured tobacco may include the smell of an additive or flavouring that is of a kind that was added or used on 31 May 2016 and has been declared in a tobacco return.

Given the very low likelihood that change to smell will work against the plain packaging objectives, we recommend that this requirement is removed. Also, it unnecessarily limits legitimate changes to existing ingredients (because of say, manufacturing processes or other reasons) in the very small percentage of products affected.

13 Regulation 9 - Text or alphanumeric marketing on tobacco packages

Regulation 9 provides that, among other things, only the following characters and symbols be permitted:

- (i) lower case letters of English alphabet, except where letter is the initial letter of a proper noun or the initial letter of a sentence, in which case the letter may be in upper case; and
- (ii) numerals 0 to 9; and
- (iv) the ampersand (&) symbol; and
- (v) the at symbol (@), but only if the symbol is used in an email

This risks creating unintended impacts that run contrary to the objectives of the regime, where some brands are treated differently than others (without promoting any of the policy objectives).

Specifically, the removal of the use of capitalisation is discriminatory against a single brand – JPS. It is anti-competitive for no reason. Even if the Government wishes to ban

the use of capitalisation, the Regulations should “grandfather” existing brand names to avoid unfair competition impacts.

The intention under the proposed regime is that trade marks in the form of printed brand names would still be permitted to appear on tobacco products, to allow retailers and customers of a legal product to distinguish brands and brand variants in the market. The requirements are aimed at restricting the printed appearance in relation to type, font, size, colour, and positioning.

Our JPS brand was shortened from the original John Player Special and is now used as the brand name for the product. As we understand, the Bill and Regulations are not intended to prevent us from using this name in printed form. However, as currently drafted, the Regulations potentially require JPS to be written jps or Jps (depending on whether JPS is treated as a proper noun) or JPs (where John and Player are proper nouns). In our view, this could not have been the intention under the regime.

Not only is this unnecessary in terms of giving effect to the intent of the Regulations - and beyond the intended scope of the Regulations - it means brands are treated differently. For example, the brand Benson & Hedges can include the ampersand. This creates an inconsistent approach to tobacco packaging creating points of difference that the regime is intended to reduce.

That is, without clarification, Benson & Hedges can continue to be used as an identifiable brand for the product, whereas JPS cannot. This would potentially create a relative advantage compared to a situation where all brands were treated the same (which, as we understand it, is the policy objective the regulations seek to implement).

We recommend that the Draft Regulations be amended to provide that capital letters are permitted for brand names if they are used in brand names as at 31 May 2016, and on a tobacco return.

This amendment avoids creating differences in treatment of tobacco companies, contrary to the objectives of the plain packaging regime.

Further, we wish to note that if email addresses are to be included with other manufacturer’s information, it will be necessary to amend the regulation to allow for a full stop “.” as a character or symbol.

14 Regulation 13 – Tobacco package wrappers

13 (4)(a) & (b) state that a wrapper covering more than one individually wrapped item may have a rectangular barcode that is coloured Pantone 448C on a Pantone Cool Gray 2C background; and that it may be marked with a Pantone 448C rectangle to conceal the barcode of each individually wrapped item, but that the size of the rectangle must be no larger than is necessary to conceal the barcode of each individually wrapped item.

For the explicit reason of practicality and ease of printing colours onto a transparent film to maintain a consistent colour, we recommend that the requirement for Pantone 448C barcode and rectangle be amended to “Pantone 448C or Black”, and that the barcode background of Pantone Cool Gray 2C be amended to “Pantone Cool Gray 2C or White”.

The black and white do not deter from the intent of the use of the rectangle and barcode.

15 Regulation 14 – Tear strip of tobacco package wrapper

As per above, we request that for the explicit reason of practicality and ease of printing colours onto transparent film to maintain a consistent colour, we recommend that Regulation 14 (b) (ii) be amended to “partially or fully coloured Pantone 448C or Black”.

It is not an objective of the Bill or Regulations to render the tobacco packaging difficult to open. Transparent tear strips are very difficult for consumers and retailers to see. ITNZ when manufacturing product for the Australian market initially used transparent tear strips but changed to black (as is allowed in the Australian regulations) after numerous consumer complaints that the tear strips were difficult to see and use.

Black tear strips across tobacco products would not create a point of difference that encourages consumption or result in packaging becoming more appealing.

We recommend that from a practical and workability perspective, Clear, Pantone 448C or Black tear strips are permitted by the Regulations.

16 Regulation 18 – Manufacturers’ details

As noted in point 13 above, if email addresses are to appear, appropriate amendment to Regulation 9(c) is required to allow for a full stop “.” as an approved symbol.

17 Regulation 19 – Printed code for tracking and tracing tobacco products

Regulation 19 allows a tobacco package to have a printed code for the purposes of tracking and tracing tobacco products. “Printed” is not defined in this Regulation, however we expect that processes such as laser etched printing (sample below) are captured.



Regulation 19 also states that the printed code must be no larger than 8 point font size. We ask that the Regulations referring to font sizes also include the front size measurements (ie. in mm) to ensure accuracy for setting the likes of laser etched printing devices, and assisting compliance.

Part 2 – Cigarettes and cigarette packs

18 Regulation 21 - Printed codes on cigarettes

Printed codes printed on cigarettes are allowable as defined within Regulation 21 but are restricted to be printed in Pantone 448C only.

We recommend, for principal reasons of colour consistency and printing efficiencies, that the Regulation be amended to “Pantone 448C or Black”.

As can be observed by the picture below, with the small size of the print of the code on the stick, having this printed in Black would make no discernible difference to consumers nor negate any policy intent of the Regulation.



We also recommend that wherever a point font size is noted in the Regulations that a corresponding measurement size (in mm) be included to ensure accuracy when setting up the printing process and to assist with compliance.

19 Regulation 25 - Lining of cigarette packets

Regulation 25 requires that the lining of a cigarette pack must be made of foil that is no more than 0.5mm thick, fully coloured in Pantone 448C, not textured and fixed to the inside of the packet.

This proposal is a step further than any other international jurisdiction.

An alarmingly critical and practical difficulty with this requirement is that creating Pantone 448C coloured foil / inner lining will require the use of solvent based inks which could permeate through the lining and into the tobacco product. The foil lining is used to keep the product fresh and avoids tainting from inks etc from the outer packaging. To be required to use ink in the foil undermines the important function of the lining.

There does not appear to be any clear basis for a concern that silver foil, as a standardised requirement, would work against the objectives of the plain packaging regime.

We recommend that Regulation 25 be amended to remove the requirement for lining to be Pantone 448C. It is simply not practical to implement this requirement because of the risk of solvent seepage into the tobacco product.

20 Regulation 27 & Regulation 33 - Brand names and variant names on cigarette and loose tobacco packs

Regulations 27 and 33 provide that a brand name should be on one line and no more than 14pt font, but also includes an additional requirement, that the brand name must be no more than 35mm in length.

This requirement potentially results in different font sizes for different brands based on an arbitrary factor, which is the length of the brand name. For example, Peter Stuyvesant might not fit on one line within the 35 mm length restriction, whereas other shorter brand names would. This would mean that Peter Stuyvesant would have to be printed in a smaller font size than other shorter brand names in order to comply with the Regulations.

This creates a point of distinction between brands, which appears contrary to the standardisation objectives. Different font size is arguably considerably less standardised than names in the same font of varying length (in terms of avoiding differences between products).

Limitation to 35mm discriminates against existing brands (including “Peter Stuyvesant”) and provides unfair competitive advantage. Even if the Government wishes to limit brand name length, the Regulations should “grandfather” existing brand names to avoid unfair competition impacts.

Given the greater size of the loose tobacco packs, it is also unclear why the length restriction is the same as for cigarette packets.

While we consider there are strong arguments for removing the length restriction, if not removed, the length restriction of tobacco packets should be commensurate with the percentage of the width of a cigarette pack. For example, if 35mm is 75% of the width of a cigarette pack, the length restriction on a loose tobacco packet should also be 75% of the width of the packet.

We recommend that

- (i) The restriction on length for the brand name in Regulation 27 and Regulation 33 be removed. This avoids unintended outcomes where some brands would be required to reduce the font in order to fit within the 35mm requirement while other brands would be printed in a comparatively larger font.
- (ii) At the very least, if brand names are to be restricted in length, permit brand names as at 31 May 2016, and on a tobacco return to be longer than the 35mm requirement (while still being required to be on one line and no more than 14pt font).

Part 3 - Loose tobacco

- 21** Part 1 Regulation 11 requires that warnings on a tobacco package (as defined in Regulation 4) must cover at least 75 percent of the front of the package and 75 percent of the back of the package.

For purposes of clarity we recommend that Part 3 include the required warnings on loose tobacco packs (as per Regulation 24 for cigarette packs).

Other Matters

22 Timing – Commencement of the Regulations

While not a matter that is addressed in the Regulations, we ask for assurance that realistic time frames will be provided for the necessary changes to be made.

The Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill provides that the Regulations will come into force on the day the Act comes into force. The Act must come into force within 18 months after it receives Royal Assent. As at the time of submitting, the Bill has not completed its legislative process through Parliament, and accordingly the dates of Royal Assent and the Act coming into force are an unknown factor.

Supply chains for our manufacturing operations in New Zealand are necessarily long given our geographic position. While information containing detailed steps of the supply chain processes required to give effect to the Regulations is commercially sensitive, ITNZ are prepared to discuss it with the Ministry at a confidential meeting.

However, we submit that in order to prepare for, and make the necessary manufacturing changes, it will be critical that there is at least a 12 month lead in time from the time the Regulations are finalised. *(12 months is based on the assumption that finalised Graphic Health Warnings and message templates and schedules are available at the same time as when the Regulations are finalised).*

We ask for assurance that realistic time frames will be provided for the necessary changes to be made for compliance, and recommend that a realistic time frame is a period of 12 months from the date of finalisation of the draft Regulations (or from the date when finalised artwork templates are available to be provided by the Ministry (whichever is the latter) to implementation.

We also ask for earliest confirmation of intended timings for all impacted parties (manufacturers, retailers and consumers) to assist in providing for preparedness.

23 Health Warnings

We note reference in the consultation document that before new Regulations are finalised, the Government will also make decisions on new health warnings and graphic images to refresh and enhance the existing set of messages.

The existing regulations currently requires health warnings to be changed every year from the images used in Set A to those in Set B (each sets includes seven different images/warning).

Rotating sets of health warnings while implementing significant changes in packaging and product requirements, adds considerable additional complexity and removes manufacturing efficiency with no discernible positive impact on consumers.

We submit that a larger set of health warnings with no “set rotation” will have the same consumer impact whilst allowing manufacturing efficiency.

We recommend that urgent consideration be given to removing the requirement for annual changes between the two sets. Rather, there could be one set of say 10 variations (rather than two sets of seven).

At the very least we ask that the obligations on retailers to comply with the annual set changes be removed which, on a practical level, is not possible for retailers to comply with absent of returning large numbers of stock. The requirement to regularly remove stock, legitimately manufactured in accordance with the plain packaging regime, appears to go considerably beyond the objectives of the regime.



Standardised Tobacco Products and Packaging Draft Regulations

Submission to the Ministry of Health

Date: 28 July 2016

Contact

_____ | www.nzno.org.nz

NEW ZEALAND NURSES ORGANISATION | PO BOX 2128 | WELLINGTON 6140

About the New Zealand Nurses Organisation

NZNO is the leading professional nursing association and union for nurses in Aotearoa New Zealand. NZNO represents over 47,000 nurses, midwives, students, kaimahi hauora and health workers on professional and employment related matters. NZNO is affiliated to the International Council of Nurses and the New Zealand Council of Trade Unions.

NZNO promotes and advocates for professional excellence in nursing by providing leadership, research and education to inspire and progress the profession of nursing. NZNO represents members on employment and industrial matters and negotiates collective employment agreements.

NZNO embraces te Tiriti o Waitangi and contributes to the improvement of the health status and outcomes of all peoples of Aotearoa New Zealand through influencing health, employment and social policy development enabling quality nursing care provision. NZNO's vision is *Freed to care, Proud to nurse*.

1. The New Zealand Nurses Organisation (NZNO) welcomes the opportunity to comment on the Draft Regulations Standardised Tobacco Products and Packaging.
2. This submission is informed by feedback from all NZNO's member groups and staff advisers, and from the large body of evidence, papers, and previous submissions we have made in support of stringent tobacco control.
3. We welcome, at last, this evidence-based action supporting the multilateral goal of a Smokefree Aotearoa New Zealand by 2025, which has been anticipated for years, during which time hundreds of young people have started smoking, a disproportionate number of whom are Māori women, thousands of others have died of tobacco-related diseases, and thousands have suffered preventable respiratory and heart disease, including children and people who have never smoked¹.
4. That this gesture has come at the same time as the government has slashed funding for tobacco cessation support and raised excise duty on tobacco indicates a callous and deliberate disregard of prior commitment to plain packaging and evidence that it is a necessary part of a balanced, comprehensive public health strategy to eliminate the

¹ Statistics New Zealand NZ social indicators: Tobacco smoking. Retrieved July 2016 http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Health/tobacco-smoking.aspx

mortality and morbidity of tobacco use and improve population health (Warner, 2013).

5. That it was cynically delayed until after the signing of the Trans-Pacific Partnership Agreement incorporating legal carve-out provisions for tobacco which *increase* the influence of tobacco companies² is shameful. It is a betrayal of the many people and agencies who have advocated and worked tirelessly to reduce harm from tobacco, a key contributor to health disparities and inequity.
6. The delay in legislative progress on plain packaging of tobacco products has not only failed to prevent harm, the reprieve has been effectively utilised by the tobacco industry to hone marketing and campaign strategies for e-cigarettes³. These are now widely available and marketed to young people, despite the Ministry of Health's unequivocal advice that "e-cigarette use poses threats to adolescents and fetuses of pregnant mothers using these devices"⁴, which NZNO strongly supports.
7. Cigarette smoking is the leading preventable cause of death globally (WHO, 2009) causing 5 million deaths annually; in Aotearoa New Zealand 5,000 people die each year from because of smoking or second-hand smoke exposure⁵.
8. Due to the restrictions on the advertising of tobacco products the packaging of the product itself has become a major focus of tobacco companies (Smith, Kraemer, Johnson, & Mays, 2015).

² Far from reinforcing the tobacco industry as the health pariah that it is, the TPPA does not mention the Framework Convention on Tobacco control, allows the tobacco industry to retain the same privileges afforded to all investors under the agreement, and provides new opportunities for it to influence government decisions eg as "interested persons" in the Regulatory Coherence chapter. The carve-out applies only to manufactured tobacco, ie readymade cigarettes, not tobacco leaf, and governments must invoke the exception for it to apply – it is not automatic. With such weak constraints and the generous provision of new legal entitlements within TPPA countries that the tobacco industry did not previously have, the TPPA has managed to snatch defeat for the FCTC, from victory. (NZNO. 2016. *International Examination of the Trans Pacific Partnership Agreement: Submission to Ministry of Foreign Affairs Defence and Trade*. Retrieved July, 2016 http://www.nzno.org.nz/Portals/0/Files/Documents/Activities/Submissions/1_2016-03_TPPA_%20NZNO.pdf

³ "All four of the transnational tobacco companies own at least one e-cigarette product" (Britten & Bogdanovica 2014, p15).

⁴ <http://www.health.govt.nz/our-work/preventative-health-wellness/tobacco-control/advice-use-e-cigarettes>

⁵ Statistics New Zealand NZ social indicators: Tobacco smoking. Retrieved July 2016 http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-social-indicators/Home/Health/tobacco-smoking.aspx

9. Evidence suggests that when youth are exposed to plain packaging there is less associated pleasure experienced during smoking (Maynard, Leonards, Attwood, Bauld, Hogarth, & Munafo, 2015).
10. Plain packaged tobacco products are perceived as less attractive amongst youth who are experimenting with cigarettes, who are then less drawn to them, and pay more attention to the health warnings (Maynard, Munafo, & Leonards, 2013).
11. There is no safe level of second hand smoke exposure, which is particularly harmful for children and can cause serious health issues, such as an increased risk of ear infections, respiratory infections, asthma attacks, bronchitis and pneumonia (Farber, Groner, Walley, & Nelson, 2015).
12. One in ten women smoke in pregnancy in Aotearoa New Zealand, with higher rates among Maori and in lower socioeconomic areas (McRobbie, 2013).
13. Smoking during pregnancy results in higher incidence of IUGR, premature birth, stillbirth and SUDI (Crawford, Tolosa, & Goldenberg, 2008). Aotearoa New Zealand has the second highest rate of youth pregnancies in the OECD (McPherson, 2015). Reducing maternal smoking would have the biggest impact on improving fetal and infant health outcomes (McRobbie, 2013).
14. Plain packaging on tobacco products will help reduce smoking and protect the most vulnerable newborns and children from the harmful effects of second hand smoke exposure.
15. Countries comparable to Aotearoa New Zealand have or are implementing plain packaging of tobacco products, eg Australia legalised plain packaging in 2012 and the United Kingdom are also currently drafting regulations to do the same.
16. NZNO supports plain packaging, but notes that the effectiveness of this and all other measures to reduce smoking and tobacco related harm is considerably undermined by the concomitant removal of funding to *support* people to quit smoking this highly addictive and toxic product. This removal of support must be factored into the evaluation and if plain packaging is less effective in reducing tobacco consumption and costs than anticipated, the government must take responsibility for it. We strongly advocate for those supports to be reinstated.
17. Our response re the draft regulation consultation questions follows a brief discussion about e-cigarettes, as we believe there is a risk that may not be harm reduction.

E-cigarettes

18. We commend the leadership that the Ministry has shown with regard to e-cigarettes, but have been disturbed to note widespread misunderstanding and misinformation with regard to how 'safe' they are and in what context.
19. For example, on the *Science* page of the Dompst (April 18, 2016) Oliver Knight-West's response to the question "*How safe is that e-cigarette?*" stated that 'vaped' nicotine is safer than nicotine in tobacco, and questioned why "toxic tobacco is given preferential treatment as a way for people to use nicotine", an implicit criticism of the Ministry's cautionary approach to the introduction of a new product for consuming nicotine and various other substances.
20. Poor understanding of the wider public health issues that e-cigarettes raise (with non-smokers) risks political and public pressure to change current regulation.
21. Nicotine is a highly addictive and toxic substance, however it is consumed. Research showing that e-cigarettes might be a useful aid to curb smoking addiction is not the same as research showing that they are safe *per se* and the two should not be conflated.
22. Marketing is already being directed at young people for these 'fashionable' accessories, available online in an array of flavours.
23. Legalising e-cigarettes would effectively legalise an alternative pathway to the introduction of nicotine (and other substances which may negatively impact health) to a whole new generation and undermine the advances made in reducing addiction that caused the highest number of preventable death and disease for decades.
24. While there is some evidence that e-cigarettes may have a role in the reduction of harm for smokers, the same does not apply to non-smokers. To date there is very little evidence little of the impact of e-cigarettes on non-smokers on the non-smoking population, and since this is an industry in its infancy, what evidence there is demands circumspection.
25. We recommend the Ministry proactively develops and promotes balanced health information about e-cigarettes as "maximising those benefits while minimising harms and risks to society requires appropriate regulation, careful monitoring, and risk management" (Britton & Bogdanovica, 2014).

CONSULTATION QUESTIONS

1. Do you agree with the proposals to limit the number of cigarettes in a pack to either 20 or 25, and the amount of loose tobacco to 30 grams or 50 grams?

Yes

We would prefer the lower options ie a maximum of 20 cigarettes per packet, and 30g of loose tobacco and note that this would imply an adjustment to the personal concession allowance duty free tobacco products. Plain packaging should also be specified for duty free products.

2. Do you agree with the proposals to restrict the dimensions of cigarette sticks by setting minimum and maximum length and diameter?

Yes

But to be consistent with the aim of removing distinctions between brands, and therefore reducing the advertising potential, the dimensions should be specific and universal – one size fits all.

3. Do you agree with the proposals setting minimum and maximum height, width and depth of cigarette packs, consistent with the limits on the number and size of the cigarette sticks they contain?

Yes

Note our previous answer: universal and specific dimensions to limit options for promoting brand variation.

4. Do you agree with the proposal that loose tobacco should be sold only in rectangular pouches made of soft-plastic?

No

If you do not agree, what alternatives do you suggest?

There are environmental and health promotion issues with soft-plastic packaging which does not readily decompose and can easily be folded to avoid harm reduction messages. We recommend plain packaging specifications apply to all products.

5. Do you agree with the proposals to standardise cigar packaging, including the proposal to limit the number of cigars that may be sold in a pack?

Yes

6. Should the regulations include a general provision to set a minimum size for all tobacco packages, including cigar packages?

Yes

7. Do you have any other suggestions for regulatory requirements to standardise the shape and size of tobacco products and tobacco product packages?

Yes

We endorse the considered recommendations put forth in ASPIRE2025's submission, that the regulations:

- should prevent any introduction of new variant names of tobacco products not already in use at date of legislation;
- should set out a regular (two year) programme to continually review and refresh pack warnings, so that research can support design of currently resonant themes for the diversity of existing customers;
- should require all factory made cigarettes and all rolling papers to match Pantone448C;
- should include the "two format" design spec provided by ASPIRE2025 to enhance the salience of the *Quitline* information;
- should include inserts to promote quitting within the package;
- should prohibit distinctive filter colours or designs (eg. grooves, holes or recesses); and that

- the Ministry of Health should set in place a regime for evaluating these regulations' impact on consumer behaviour to support other countries implementing the Framework convention for Tobacco Control.

8. Do the regulations need to allow for any other anti-counterfeiting marks?

NO.

We note and support Smokefree Aotearoa New Zealand's comments with regard to anti-counterfeiting marks:

"We strongly recommend submissions from tobacco industry are treated with extreme scepticism when they suggest extra markings to be permitted for anti-counterfeiting purposes. Permitting their suggestions or providing them with room to determine markings is opening a new door toward continuing a form of brand variance. The tobacco industry itself has been found in various places around the world, to be active and/or complicit in illicit trade of tobacco products. The motivation is to undermine strong tobacco excise tax regimes using trade circuits between nations: their advice on controlling counterfeiting will have the same motivations and is therefore compromised and not to be trusted."

9. If additional anti-counterfeiting marks are to be allowed, how could these be regulated to ensure they do not communicate to consumers or have any effect that might undermine the intentions of standardised packaging?

Please provide detail below.

N/A

10. Do the regulations need to permit any other marks or features on tobacco product packages to allow for automated manufacturing and packaging processes?

No

11. Should the regulations allow for the country of manufacture to be printed on tobacco products or packages?

No

No for the same reason we do not support any other variation on packaging: it undermines the intention of plain packaging as any difference could be exploited for brand variation. Country of origin, we suggest, would be an influential factor for brand preference.

12. Are there any additional features within the scope of the regulation-making powers in the Smokefree Environments (tobacco standardised packaging) Amendment bill that might increase the effectiveness of standardising tobacco products and packaging? If so what is the rationale and can you provide supporting evidence?

Yes

We suggest that the evaluation programme measuring the impact of the packaging regulations be expanded to include measurement of other smoking-related factors including health warning themes via mass media marketing; e-cigarette uptake and use by smokers and non-smokers; and cessation support.

As indicated in the first part of our submission, the removal of funding for smoking cessation support in the last budget including for SmokeFree Aotearoa NZ 2025 as well as the increase in excise can only exacerbate health and socio-economic disparities, and will also skew evaluation results, since plain packaging is most effective as part of a comprehensive balanced programme of increased pricing *alongside* rather than exclusive of cessation support mechanisms and health promotion. We expect that the evaluation will clearly reference the government's decision to undermine this already delayed strategy.

Nāku noa, nā

██████████

████████████████████

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Submission form

Standardised Tobacco Products and Packaging Draft Regulations

Details

Name and designation:	<div></div>
Company organisation name and address:	Pacific Heartbeat, Heart Foundation 9 Kalmia Street Elleslie, Auckland 1051
Contact phone number and email address:	<div></div>

NO we do not have any direct or indirect links to or vested interests in the Tobacco Industry

YES we give permission for our details to be released under the Official Information Act

Additional information

I am, or I represent, an organisation that is based in:

☒ New Zealand

I am, or I represent, the following category or categories: *(tick all that apply)*

☒ Member of the public ☒ Non-governmental organisation

Please return this form to:

Email: standardisedtobacco@moh.govt.nz

Introduction

We would like to thank you for this opportunity to make a submission on standardised tobacco products and packaging draft regulations.

Pacific Heartbeat represents a collective call for action for Pacific peoples here in New Zealand on tobacco issues. Ensuring that the Pacific voice is heard and the diverse Pacific perspectives are represented as part of the discussions for Smokefree Aotearoa and tobacco elimination.

We fully support standardised packaging and welcome the Submission on Tobacco Products and Packaging Draft regulations in the interests of protecting future generations of Pacific children from exposure to one of the last forms of marketing by tobacco companies. Every year over 2000 children under the age of 10 take their first puff on a cigarette and whilst plain packaging will not eradicate smoking completely, it will give our children one less reason to start. The efforts to protect our children and improve the public's health is not complete as today tobacco is the leading preventable cause of death in New Zealand. Pacific people are no exception to this rule. Today's Pacific people in New Zealand are mainly young and urbanized with more than 22 different Pacific communities in New Zealand – each with their own distinctive culture, language history and health status.

Tobacco packaging is a powerful mechanism for marketing tobacco products – particularly to children and young people. The tobacco industry’s use of imagery and colour is carefully targeted to reach particular market segments such as children or teenagers. Increasing restrictions on the advertising of tobacco in New Zealand over the past twenty years has meant that the tobacco industry has become increasingly reliant on the cigarette pack itself as the vehicle to advertise and promote its products.

Tobacco plain packaging is an important step to achieve the government’s goal of Smokefree 2025.

This submission was represents collective input by Tala Pasifika, Pacific Heartbeat and The Pacific Smokefree Network.

Consultation questions

Although the submission form includes blank spaces for answering the questions, these do not set a limit for the length of your responses and you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

Size and quantities of tobacco products

- 1 Do you agree with the proposals to limit the number of cigarettes in a pack to either 20 or 25, and the amount of loose tobacco to 30 grams or 50 grams?

YES

Please outline your reasons.

- A standard amount of tobacco will limit attempts for tobacco products to differentiate themselves, or appear to offer ‘added value’. There are examples of tobacco packs that non-standard amounts 25+1 (26 total cigarettes) purely for marketing reasons.
- We support to limit on the number of cigarettes in a pack to one quantity of 20 and loose tobacco to 30 grams.

- 2 Do you agree with the proposals to restrict the dimensions of cigarette sticks by setting minimum and maximum length and diameter?

YES

Please outline your reasons.

Sticks need to have uniformity of length and diameter. There is evidence of use of thinner dimension cigarettes to convey a message, particularly to female smokers. Those cigarette sticks are known as 'slims'. There are examples of tobacco packs that have longer than usual lengths, purely for marketing or differentiation reasons.

We recommend setting exact dimensions for Roll Your Own papers and filters, also that standardised packaging legislation applies to all tobacco associated products.

- 3 Do you agree with the proposals setting minimum and maximum height, width and depth of cigarette packs, consistent with the limits on the number and size of the cigarette sticks they contain?

YES

Please outline your reasons.

Like the sticks themselves, any variation between height, width and depth of packets, would be used to differentiate tobacco brands, in the absence of brand colours and logos.

Minimum and maximum heights, widths and depths for cigarette packing could be strengthened. We recommend 'exact' height, width and depths of tobacco packets to be set in government regulation to allow no other interpretation from tobacco industry may be entered into.

- 4 Do you agree with the proposal that loose tobacco should be sold only in rectangular pouches made of soft-plastic?

YES

Please outline your reasons. If you do not agree, what alternatives do you suggest?

Like the above suggestions, only a singular shape, in this case 'rectangular' would be suitable, as other shapes/dimensions would be used to differentiate and market tobacco products. e.g. triangular 'fashion' pouch, or pouches made from appealing materials.

- 5 Do you agree with the proposals to standardise cigar packaging, including the proposal to limit the number of cigars that may be sold in a pack?

YES

Please outline your reasons. If you do not agree, what alternatives do you suggest?

The standardised pack policy must apply equally to all tobacco products. Cigar smoking can be as damaging as cigarette smoking.

- 6 Should the regulations include a general provision to set a minimum size for all tobacco packages, including cigar packages?

YES

- 7 Do you have any other suggestions for regulatory requirements to standardise the shape and size of tobacco products and tobacco product packages?

YES

If yes, please provide detail below.

If within the scope, consideration of 'dissuasive sticks' – sticks that are set out with specific unappealing colour characteristics could be introduced. Dissuasive sticks could enhance the effect of standardised packaging.

Stipulate the inner surface is required to also match Pantone 448C.

Prevent variant names be re-registered as brand names

Prevent the names of colours (which now no longer have reference) being used as brand or variant names.

Prevent evocative, misleading or descriptive names.

Permitted markings on tobacco packages

- 8 Do the regulations need to allow for any other anti-counterfeiting marks?

NO

Please provide detail and reasons below.

Counterfeit cigarettes is not a substantive issue in the New Zealand tobacco market.

- 9 If additional anti-counterfeiting marks are to be allowed, how could these be regulated to ensure they do not communicate to consumers or have any effect that might undermine the intention of standardised packaging?

Please provide detail below.

Counterfeit cigarettes is not a substantive issue in the New Zealand tobacco market.

- 10 Do the regulations need to permit any other marks or features on tobacco product packages to allow for automated manufacturing and packaging processes?

NO

Please provide detail and reasons below.

Regulation should permit a batch number, as barcode and brand would not be useful, for example in a product recall. However any permitted number should be placed only the outside clingfilm, not the packet itself. 'Best before' dates, in themselves are largely redundant for these products.

- 11 Should the regulations allow for the country of manufacture to be printed on tobacco products or packages?

NO

Please provide detail and reasons below.

No, country of origin is a factor (possibly the only one in a standardised packs environment) than could lead to product differentiation.

Additional features to increase the effectiveness of standardised packaging

- 12 Are there any additional features within the scope of the regulation-making powers in the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill that might increase the effectiveness of standardising tobacco products and packaging? If so, what is the rationale and can you provide supporting evidence?

Yes

If yes, please provide detail below.

If within the scope, consideration of 'dissuasive sticks' – sticks that are set out with specific unappealing colour characteristics could be introduced. Dissuasive sticks could enhance the effect of standardised packaging.

Source: Dissuasive cigarette sticks: the next step in standardised ('plain') packaging?

J Hoek, P Gendall, C Eckert, J Louviere - Tobacco control, 2015 - tobaccocontrol.bmj.com

Other comment on content of draft regulations

If you wish to make any other comments on the content or coverage of the draft regulations, please provide detail below.

Many thanks for the opportunity to comment. We welcome this process in and effort for moving forward with Standardised Packaging in New Zealand in the very near future.

Consultation submission

Details

Name and designation:

Company organisation
name and address:

The Pacific Cigar Company (New Zealand) Ltd.
59-67 High Street, Auckland Central, New Zealand

Contact phone number and
email address:

Confidentiality

Please keep my comments confidential:
(reasons including identity of specific comments if applicable)

☐ Yes

This request can only be actioned if your reasons satisfy [Official Information Act](#) criteria.

Declaration of any tobacco industry links or vested interests

As a party to the global tobacco control treaty, the World Health Organization Framework Convention on Tobacco Control, New Zealand has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To help meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. The Ministry will still carefully consider responses from the tobacco industry and from respondents with links to the tobacco industry, alongside all other submissions. Please provide details of any tobacco company links or vested interests below.

The Pacific Cigar Company (New Zealand) Ltd. is the authorised importer of all premium hand-made Cuban Havana (Habanos) cigars in New Zealand

Additional information

I am, or I represent, an organisation that is based in:

☒ New Zealand ☐ Australia ☐ Other (please specify):

I am, or I represent, the following category or categories: (tick all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Overseas manufacturer | <input type="checkbox"/> New Zealand-based manufacturer |
| <input checked="" type="checkbox"/> Importer | <input type="checkbox"/> Exporter |
| <input checked="" type="checkbox"/> Retailer | <input type="checkbox"/> Government |
| <input checked="" type="checkbox"/> Wholesaler or distributor | <input type="checkbox"/> Institution (eg, university, hospital) |
| <input type="checkbox"/> Member of the public | <input type="checkbox"/> Non-governmental organisation |
| <input type="checkbox"/> Other (please specify): | |

Please return this form to:

Email: standardisedtobacco@moh.govt.nz

Consultation questions

Although the submission form includes blank spaces for answering the questions, these do not set a limit for the length of your responses and you should take as much space as you need to answer or comment. Feel free to enlarge the boxes or attach additional pages.

Size and quantities of tobacco products

- 1 Do you agree with the proposals to limit the number of cigarettes in a pack to either 20 or 25, and the amount of loose tobacco to 30 grams or 50 grams?

☐ Yes

☐ No

Please outline your reasons.

No Comment, we do not sell such products

- 2 Do you agree with the proposals to restrict the dimensions of cigarette sticks by setting minimum and maximum length and diameter?

☐ Yes

☐ No

Please outline your reasons.

No Comment, we do not sell such products

- 3 Do you agree with the proposals setting minimum and maximum height, width and depth of cigarette packs, consistent with the limits on the number and size of the cigarette sticks they contain?

☐ Yes

☐ No

Please outline your reasons.

No Comment, we do not sell such products

- 4 Do you agree with the proposal that loose tobacco should be sold only in rectangular pouches made of soft plastic?

☐ Yes

☐ No

Please outline your reasons. If you do not agree, what alternatives do you suggest?

No Comment, we do not sell such products

- 5 Do you agree with the proposals to standardise cigar packaging, including the proposal to limit the number of cigars that may be sold in a pack?

☐ Yes

☒ No

Please outline your reasons. If you do not agree, what alternatives do you suggest?

Please refer to submission

- 6 Should the regulations include a general provision to set a minimum size for all tobacco packages, including cigar packages?

☐ Yes

☒ No

Please outline your reasons below.

Please refer to submission

- 7 Do you have any other suggestions for regulatory requirements to standardise the shape and size of tobacco products and tobacco product packages?

☐ Yes

☒ No

If yes, please provide detail below.

Permitted markings on tobacco packages

- 8 Do the regulations need to allow for any other anti-counterfeiting marks?

☒ Yes

☐ No

Please provide detail and reasons below.

Please refer to submission

- 9 If additional anti-counterfeiting marks are to be allowed, how could these be regulated to ensure they do not communicate to consumers or have any effect that might undermine the intention of standardised packaging?

Please provide detail below.

Please refer to submission

- 10 Do the regulations need to permit any other marks or features on tobacco product packages to allow for automated manufacturing and packaging processes?

☒ Yes

☐ No

Please provide detail and reasons below.

Please refer to submission

- 11 Should the regulations allow for the country of manufacture to be printed on tobacco products or packages?

☒ Yes

☐ No

Please provide detail and reasons below.

Please refer to submission

Additional features to increase the effectiveness of standardised packaging

- 12 Are there any additional features within the scope of the regulation-making powers in the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill that might increase the effectiveness of standardising tobacco products and packaging? If so, what is the rationale and can you provide supporting evidence?

☐ Yes

☒ No

If yes, please provide detail below.

Other comment on content of draft regulations

If you wish to make any other comments on the content or coverage of the draft regulations, please provide detail below.

Please refer to submission



THE PACIFIC CIGAR CO. (NEW ZEALAND) LTD.

59-67 HIGH ST, PO BOX 106-400, AUCKLAND CENTRAL, NEW ZEALAND
TELEPHONE (649) 357 0037 FAX (649) 375 0103 EMAIL: theteam@havanahousecps.co.nz

The Pacific Cigar Company (New Zealand) Ltd

Submission to the

Consultation Document

**Smoke-free Environments (Tobacco Plain Packaging) Amendment
Bill & Smoke-Free (Standardisation of Tobacco Packaging and
Tobacco Products) Regulations**



EXCLUSIVE DISTRIBUTOR
FOR
ALL HAVANA CIGAR BRANDS



THE PACIFIC CIGAR CO. (NEW ZEALAND) LTD.

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TELEPHONE (649) 357 0037 FAX (649) 375 0103 EMAIL: theteam@havanahousecps.co.nz

29th July 2016

Mr Paul Badco
Ministry Of Health
standardisedtobacco@moh.govt.nz

Mr Badco,

THE PACIFIC CIGAR COMPANY (NEW ZEALAND) SUBMISSION TO MOH

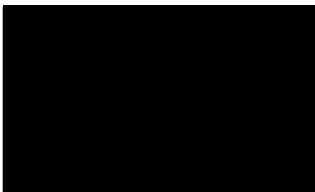
The Pacific Cigar Company (New Zealand) tends this document as a formal submission in response to the Consultation Document of the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill & Smoke-Free (Standardisation of Tobacco Packaging and Tobacco Products) Regulations

The Pacific Cigar Company understands that the Consultation Document of the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill & Smoke-Free (Standardisation of Tobacco Packaging and Tobacco Products) Regulations is a starting point for consultation with industry, and confirms our interest to be part of the ongoing consultation with the Commonwealth Government and the Ministry of Health (and other departments) regarding the Bill and its content.

The Pacific Cigar Company submits its initial concerns with the proposed plain packaging Bill at this early stage, and presents an overview of the Bill's potential to adversely impact hand-made premium Cuban cigars being sold in New Zealand.

We look forward to being part of the ongoing consultation process.

Yours sincerely,



The Pacific Cigar Company (New Zealand) Ltd



EXCLUSIVE DISTRIBUTOR
FOR
ALL HAVANA CIGAR BRANDS

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Executive Summary

The proposed Commonwealth Government *Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill ('the Bill')* & *Smoke-Free (Standardisation of Tobacco Packaging and Tobacco Products) Regulations ('the Regulations')* will have a serious negative impact on premium hand-made long filler Cuban cigars currently sold in New Zealand.

In its current form, the proposed Bill and Regulations have adverse unintended consequences that will likely result in a cessation of the importation of premium hand-made long filler Cuban cigars to New Zealand.

The main objectives of the Bill as specified in the Consultation Paper include reducing the appeal of tobacco products, particularly for young people, to reduce the wider social acceptance of smoking and tobacco products, and to reduce the likelihood of consumers acquiring false perceptions of the harms caused by tobacco products. These objectives do not correlate nor are relevant to the niche tobacco sector of premium hand-made long filler Cuban cigars and its associated consumers.

There are a number of distinguishing features between the machine made mass market non-premium cigar and that of the niche sector of quality Cuban cigars, as there are differences between the consumer of these products. The Bill and Regulations, in their current form fail to recognise the implicit and explicit differences between the products and also their associated consumers.

The machine made mass market non-premium cigar industry may be in a position to tweak their production processes to meet these updated New Zealand requirements, however, this is in stark contrast to the artisan Cuban cigar-making process, which is traditional, labour intensive, heavily controlled by the Government of the Republic of Cuba, and has specific production and processes in place which ensure the integrity and quality of the products are maintained. The Cuban makers and brands of these cigars, including *Cohiba*, *Montecristo*, *Romeo y Julieta* and *Partagas* cannot tailor their iconic production processes to meet the requirements of the New Zealand market.

The Pacific Cigar Company (New Zealand) has cooperated with the New Zealand Government in the past to introduce the existing tobacco warnings and labelling on Cuban cigar boxes. This process was conducted outside Cuba by the Pacific Cigar Company in Hong Kong and associated costs were borne by the company.

The actions being proposed by the New Zealand Government have the potential to undermine the integrity, traceability and authenticity of the products. The Cuban Government is very sensitive to counterfeit cigar products. In response, the Cuban Government has introduced an elaborate system of markings and controls, around their products, all of which prevent any deliberate or unintentional changes or the tampering with the actual cigar product once it leaves Cuba.

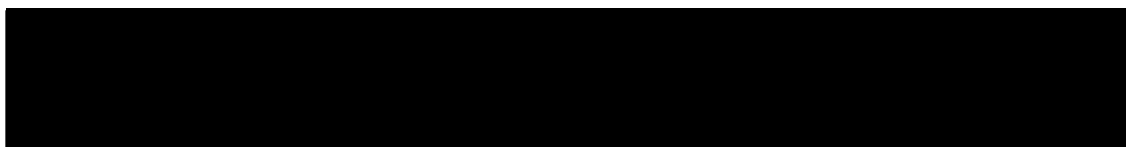
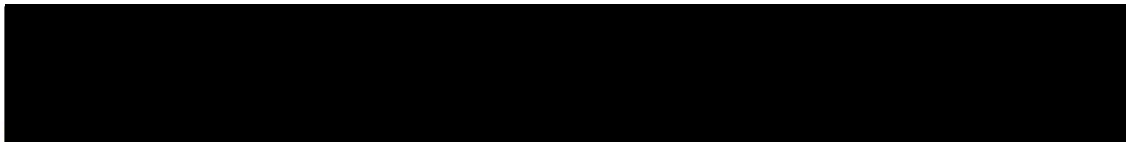
The proposed Bill makes it impossible for compliance to be satisfied in Cuba. The nature of the product and its associated production processes mean that the Pacific Cigar Company in New Zealand is also unable to comply with the potential reforms. Ultimately, this means that premium hand-made long filler Cuban cigars would not be able to be sold in New Zealand.

In its current form, the Bill and Regulations fails to distinguish between the tobacco industries of machine made mass market non-premium cigar production and the premium hand-made long filler Cuban cigar sector. Yet, there is a stark contrast. Cuban cigars imported by the Pacific Cigar Company into New Zealand are 100% natural leaf tobacco with no additives or chemicals. There is an enormous disparity between premium hand-made long filler Cuban cigars and machine made mass market non-premium cigar production and associated consumption levels, consumption demographics, and usage.

The Pacific Cigar Company strongly urges the New Zealand Government and the Ministry of Health, to address the impact of the proposed Bill and Regulations on premium hand-made long filler Cuban cigars to New Zealand, and to differentiate their approach and policy development between the niche cigar sector and that of the machine made mass market non-premium cigar industries.

Our Consultation submission document is enclosed, following an introduction and presentation of the products we represent: premium hand-made long filler Cuban cigars.

Introduction



The Pacific Cigar Company is the authorised importer of premium hand-made Cuban Havana (*Habanos*) cigars, such as *Cohiba, Trinidad, Montecristo, Partagas, Romeo y Julieta, Punch, H. Upmann, Hoyo de Monterrey, La Flor de Cano, Quintero, San Luis Rey, Bolivar, Vegas Robaina and Vegueros* in New Zealand.

The Bill and Regulations includes premium hand-made long filler Cuban cigars in its scope. Yet, both the Bill and Regulations fail to distinguish between the machine made mass market non-premium cigar industry and the premium hand-made long filler Cuban cigars sector and fails to recognise the implicit and explicit differences between the products and also their associated consumers.

The Pacific Cigar Company urges the New Zealand Government to re-examine the Bill and Regulations to ensure the survival of premium hand-made long filler Cuban cigars in New Zealand. As noted, the main objectives of the Bill as specified in the Consultation Paper include reducing the appeal of tobacco products, particularly for young people, to reduce the wider social acceptance of smoking and tobacco products, and to reduce the likelihood of consumers acquiring false perceptions of the harms caused by tobacco products

These objectives do not correlate nor are relevant to the niche tobacco sector of premium hand-made long filler Cuban cigars and its associated consumers.

The niche sector of Cuban cigars in New Zealand

In contrast to machine made mass market non-premium cigar which can contain a variety of additives and chemicals, the handmade long filler cigars imported by The Pacific Cigar Company (NZ) Ltd from Cuba are made from 100% natural long leaf tobacco only. There are no additives and/or chemicals included in the manufacturing of these cigars. Thus, Cuban handmade long filler cigars have no shelf life or expiry date and, if held in the appropriate conditions, do not deteriorate. *(refer to the 2015 Tobacco Returns for Havana House Cigars (NZ) containing a letter that confirms our products are made with 100% natural tobacco and contain no additives)*

<http://www.health.govt.nz/our-work/preventative-health-wellness/tobacco-control/tobacco-returns/tobacco-returns-2015>

Cuban hand rolled, long filler cigars (Cuban cigars) are sui generis. Historically they have always been recognized as a unique product and recognized as such by international bodies such as the United Nations World Intellectual Property Organisation (WIPO) and the World Trade Organisation (WTO) where they have GI and Designation of Origin (DOP) status.

Cuban cigars are rolled by hand using 100% natural tobacco utilizing methods that have been in practice for two hundred years. The definition of a "handmade" cigar is a cigar made by hand exclusively from 100% natural tobacco leaves and vegetal gum using the following implements only: cutting boards, hand held tobacco knives, hand operated guillotines and bunching devices, length and girth templates, glue pots and size moulds.

These products are internationally renowned as of the highest quality, not only because they are hand rolled using traditional methods, but also because 100% natural tobacco long leaves are used to make the filler, the binder and also the wrapper.

These Cuban cigars are separate, distinct and distinguishable from machine made mass market non-premium cigar which some manufacturers may describe as being "handmade" but which may in fact have been machine made, using machine chopped tobacco leaf filler and then wrapped by hand using a single long leaf wrapper or even a wrapper made from pulped tobacco.

This is an important point: the proposed Bill and Regulations do not currently make a distinction. The Bill and Regulations scope and application is very broad, yet its objectives are specifically targeted at consumers of cigarettes and the mass market non-premium cigar industry. Therefore, there obviously is a disconnect between the proposed legislation and its targeted audience.

There are stark points of difference between the machine made mass market non-premium cigar industry and premium hand-made long filler Cuban cigars. These obvious differences underline why the proposed legislations objectives do not correlate nor are relevant to the niche tobacco sector of premium hand-made long filler Cuban cigars and its associated consumers.

The key differences centre on:

- consumption;
- demographics;
- price; and
- access.

The products are not similar or substitutable and neither are their consumers.

Consumption of Cuban cigars in New Zealand

The major consumption of premium hand-made long filler Cuban cigars has historically been associated with celebratory events in one's life, such as weddings, christenings, graduations, professional promotions, bar mitzvah's, the successful completion of important negotiations or simply meeting up with friends for a chat and maybe a drink. Typically, premium cigar consumers do not lean on cigars as a mood corrector, and it is very rare indeed that a Cuban cigar smoker also smokes cigarettes or mass market non-premium cigars.

In New Zealand, on average, a regular consumer of premium Cuban cigars smokes two cigars per week.

The point being made here is that an average premium cigar smoker will make an informed decision on the product they are consuming, and when they will consume the product. They are not dictated by habit unlike mass market non-premium cigar smokers and consumption levels between the two products are not comparable.

Globally, consumers who purchase premium hand-made long filler Cuban cigars choose to access this product for the same reasons and motivation that consumers of the finest and rarest vintage spirits and liquors choose to access prestigious alcohol. A cigar buyer is an educated, and sporadic buyer.

Demographics

In New Zealand, the average consumer of a premium hand-made long filler Cuban cigars is male and over 45 years of age. From our experience as the authorised importer of Cuban cigars in New Zealand and with direct liaison to around 100 retail outlets of Cuban cigars in New Zealand, it is extraordinarily rare that cigar consumers are females.

The Bill is explicit in its aim to:

- make tobacco less appealing, particularly to young people;
- to reduce the wider social acceptance of smoking and tobacco products
- to reduce the likelihood of consumers acquiring false perceptions of the harms caused by tobacco products

The Pacific Cigar Company notes the clear differences between the profile of an average consumer of a premium hand-made long filler Cuban and that of a typical smoker on whom the Commonwealth Government is focussing this policy.

Average price of Cuban cigars in New Zealand

Cuban cigars are considered luxury products. The average price of a premium hand-made cigar from Cuba retails in New Zealand for approximately \$51.00 per cigar. However, similar to the speciality vintage wine market, Cuban vintage cigars can retail up to \$140 per cigar.

One machine made mass market non-premium cigar from a brand such as Wee Willem is \$1.75 (refer to 2015 Tobacco Return from Phillip Morris (New Zealand) Ltd). The price of the cigar product is in itself an effective discouraging measure.

Access to Cuban cigars in New Zealand

Unlike the machine made mass market non-premium cigar industry, Cuban cigars imported by the Pacific Cigar Company are sold in limited and exclusive retail outlets (including a limited number of premium hospitality venues and speciality liquor stores).

As the Bill has one of its objectives to discourage people taking up smoking and/or reducing the number of smokers including those who have given up smoking, access to products, that is ease of buying the product, is surely an element the Bill and Regulations should consider. Currently, there is no distinction made in the proposed legislation in relation to this matter.

In New Zealand, the Pacific Cigar Company operates one retail store in Auckland. In addition, there are approximately 100 other retailers that sell Cuban cigars to the New Zealand market. These retailers include: airport duty free, premium hospitality venues, specialty liquor stores. 100 per cent of these retailers are - by law - required to have the products 'blacked out', that is the cigars cannot be visible to consumers and/or potential consumers. A consumer must ask for the product.

The making of premium hand-made long filler Cigars in Cuba

By way of background, premium cigars from Cuba are crafted by hand using high-quality 'long filler' tobacco leaves which typically are the size and length of a cigar.

On average, it takes five types of tobacco leaf to make a Cuban cigar - each type specially grown and prepared for its purpose.

That is:

- a) *The Filler ('tripa')* – three types of leaf are blended to form the filler;
- b) *The Binder ('capote')* – part of leaf that wraps around the leaves of the filler, defining the shape of the cigar and its quality;
- c) *The Wrapper ('capa')* – thin and supple leaf that forms the outer surface of a cigar.

The making of cigars is labour intensive based on centuries-old methods of cultivating Cuban tobacco that remain virtually unchanged.

Similar to premium wines from around the world, defined by their vineyard and vintage, Cuban cigars are defined and connected to the specific area of land where the tobacco is grown, which in Cuba are strictly limited to defined regions.

Tobacco regions are served by Tobacco Research Stations which control the seed and processes that farmers use. Each farmer is responsible for a specific area and plants and each plant must be inspected numerous times in the course of the growing season. The process is heavily labour intensive; farmers are required to pick each leaf by hand when the leaves are ready and the whole process can take up to 30 days to complete. The leaves are aged (depending on tobacco this process alone can take over two years to complete), the fermentation processes commence, sorting and classification, and eventually the wrapping and crafting of individual cigars. On average, cigar rollers can make between 60 and 150 cigars per day – depending on the cigar's size and complexity.

Once made, the cigars are packed in various types of internal packaging, designed specifically to safeguard the product following exportation from Cuba until reaching the end user, who will either consume the product immediately or store it in the required manner following the purchase. This includes the ribbons which hold the cigars in place, the tissue paper which prevents damage to the cigars from rubbing against the packaging, the sheet of cedar wood which absorbs moisture to ensure the product does not deteriorate and the insert of advice as to the recommended humidity and temperature to store the cigars.

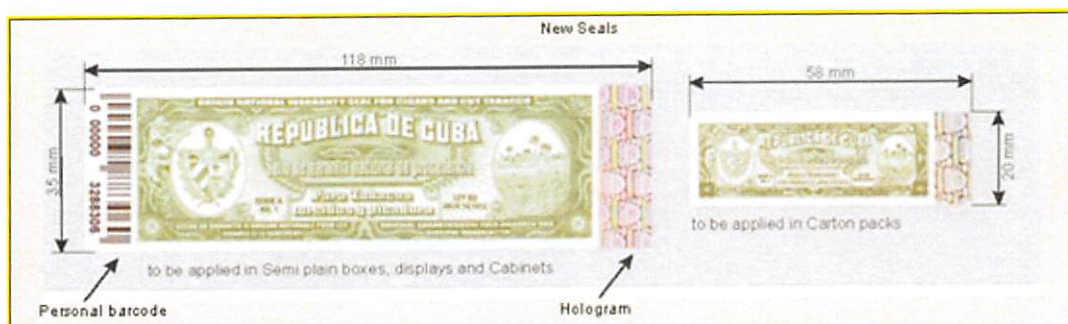
This production process has nothing in common with the production processes of machine made mass market non-premium cigar

Marks of distinction:

Relevant to the Bill and the Consultation Paper, one of the final stages of producing a cigar, is the application of labels and bands.

Just before the box is closed and sealed, there is a final quality examination by Cuban Government authorised inspectors who check colour matching, banding, and the general appearance of each cigar.

The Cuban Government long ago implemented intricate and systematic authenticating marks to distinguish counterfeit products sold on the global market as Cuban grown and crafted.



New seals implanted by the Cuban Government.

The measures include:

- *Cuban Government warranty seal* – the warranty seal was first introduced in 1889 by Royal Decree of the King of Spain. In 1912, the Cuban Government passed a law authorising the use of a new design which is similar to the one in use today. In 1999, the Cuban Government introduced the addition of a red serial number and an emblem that is visible only under ultra-violet light.
 - This seal appears on all tobacco products made in Cuba. It is not possible for this seal to be broken outside of Cuba (unless by Customs officials) and certainly not by a company such as the Pacific Cigar Company to insert additional tobacco warnings into the boxes. It is worthy of note that where boxes have been opened by Customs officials, these boxes are frequently unable to be sold.
 - The seals are placed on a designated position on every box (upper left side). Please refer to Attachment 2 for images of such seals on boxes imported by the Pacific Cigar Company. In addition, a unique bar code is applied on every cigar box, therefore ensuring its customisation. This information is saved on a central database, and information available to the consumer confirms its authenticity.
 - Seals are made from a base of synthetic paper with special characteristics, such as an auto-destructive feature to prevent attempts of its removal. In addition the seals are:
 - non-transferable;
 - strongly adhered to the box; and
 - embedded with optical variations and a micro dot only visible through a laser scanner.
- *Denomination of origin* – since 1994, all boxes carry the Habanos seal as a mark of the cigars' denomination of origin. No cigar box can be shipped from Cuba without this seal.
- *Cigar Box bottoms* – since 1960, the bottoms of all boxes have been hot-stamped with the words 'Hecho en Cuba' ('Made in Cuba'). Since 1994, boxes have also been hot-stamped 'Habanos S.A.' the company that distributes Habanos worldwide.

- *Factory code and box date* – There are two ink-stamps on the bottoms of Habanos boxes. One is a code that informs which factory made the actual cigar, and the other is the month and year the cigars were boxed.

All these measures have been applied by the Cuban Government to ensure the authenticity and integrity of Cuban cigars are maintained once they leave Cuba.

Question 5. Do you agree with the proposals to standardise cigar packaging, including the proposal to limit the number of cigars that may be sold in a pack?

The Pacific Cigar Company (New Zealand) strongly disagrees with the proposal to limit the number of cigars that may be sold in a pack.

The draft regulations propose that cigars may continue to be sold singly or in packs containing 5 or 10 cigars. According to the draft Regulations *“this is intended to provide a similar degree of standardisation as would apply to cigarettes and loose tobacco, **while also reflecting the common quantities in which cigars are currently sold.**”*

This is simply not correct, 95% of all premium hand-made long filler Cuban cigars dispatched from Havana, Cuba currently come in a standard pack size of 25 cigars. This is the longstanding pack size used by Habanos S.A. In New Zealand, pack sizes of 25 cigars make up 80.3% of all our cigar imports and pack sizes of 15 cigars are 11%. Therefore these two different pack sizes account for over 91% of all premium hand-made long filler Cuban cigar imports into New Zealand. *(Refer to appendix A)*

Furthermore, there is another argument against standardised pack sizes which relates to authenticity. Our premium handmade long filler Cuban cigars have been packaged in their standard pack size as dispatched by the manufacturer for up to 100 years for some of our cigars. If we were forced to change these longstanding and universally recognised pack sizes, the consumers would rightfully have concerns about the authenticity of the products we sell, therefore creating discord in the local market and creating a very unfair burden of compliance on our company, as compared to other tobacco companies and their specific sector of the market.

We import 80% of our Cuban cigars in a pack size of 25 cigars, then we dispatch to our wholesale clients in this same pack size of 25 cigars. Once our wholesale client (who may be a premium hospitality venue, premium liquor store etc) receives these cigars, they will usually break open the pack of 25 cigars and place the cigars individually into their humidor. Then they are offered for sale to the consumer either singly or in multiples. There are also instances where the wholesale client can sell the entire pack of 25 cigars to a consumer.

11% of the cigars we import come in a pack size of 15 cigars, which internally is made up of 5 packets of 3 cigars per each packet. We then dispatch to our wholesale clients in this same pack size of 15 cigars. Once our wholesale client (who may be a premium hospitality venue, premium liquor store etc) receives these cigars, they will usually break open the pack of 15 cigars and place the cigars either individually into their humidor or in packs of 3. They are then offered for sale to the consumer either individually, multiples or in packets. There are also instances where the wholesale client can sell the entire pack of 15 cigars to the consumer.

If a pack size of 5 or 10 was implemented, it would be impossible to repack into this quantity as it would entail breaking open the existing packaging and attempting to repackage into quantities that is smaller than the original pack size and distributed from Havana, Cuba. This would compromise the integrity of the product and is not allowed to by Habanos S.A.

Additionally, currently when repacking occurs inside of our bonded warehouse in Hong Kong (which is a commercial necessity) for the Australian market, Hong Kong Customs insist that

products can only be repacked into the same pack size as sent by the manufacturer, again to preserve the integrity of the product and to ensure that the supply lines of the products is not compromised in any way. For any plain packaging repacking to occur for New Zealand, it must be done in our Hong Kong bonded warehouse and therefore we must be allowed to repack into the same pack size as originally made by the distributor.

To ensure that premium hand-made long filler Cuban cigars can continue to be sold, legally, within New Zealand we implore you to allow repacking into the original pack size as sent by the manufacturer, Habanos S.A.

Question 6. Should the regulations include a general provision to set a minimum size for all tobacco packages, including cigar packages?

We strongly disagree with the proposal that the regulations include a general provision to set a minimum size for all tobacco packages, including cigar packages.

On page 10, Note 2 of the Standardised Tobacco Products and Packaging Draft Regulations it states *“Australia’s legislation also includes a general requirement for loose tobacco pouches, cigar packs and all other tobacco packages to be at least 85mm long and 55mm wide. This provision ensures that the packages are of sufficient size to clearly display mandatory health warnings and images. The draft regulations do not currently propose a similar provision for New Zealand because it would appear this may be unnecessary alongside the other restrictions on tobacco packages and contents”*.

We believe that if the New Zealand Government follows the same pack size as dispatched by the manufacturer then there is no need to include this provision. This is because using the current packaging size, the graphic health warnings are already displayed prominently on our cigar packages. By our business nature, our most popular packaging size is a box of 25 cigars. The average dimensions of this size of box is 223mm length by 72mm height. (Example used is Romeo y Julieta No.2 A/T). Additionally we have approximately 80 other different sizes of packaging with the smallest being 85mm length by 115mm height (Example used is Hoyo De Monterrey Le Hoyo Du Maire) and the largest being 294mm length by 54mm height (Example used is Montecristo Petit Tubos A/T). *(Refer to appendix B)*

As you can see by using the existing packaging sizes as distributed by the manufacturer, the graphic health warnings are displayed prominently and therefore we believe there is no requirement to set a minimum size for cigar packages.

Question 8. Do the regulations need to allow for any other anti-counterfeiting marks?

It is essential that we are allowed to maintain the factory code and date code on our packaging as an integral component of the anti-counterfeiting measures that the Cuban Government have implemented. This information allows traceability and authenticity to be continued for our products.

This information is expressly allowed in the Australian Tobacco Plain Packaging Regulations 2011 as per the below:

2.3.2 Origin mark

- (1) An origin mark must be:
 - (a) an alphanumeric code; or
 - (b) a covert mark that is not visible to the naked eye.
- (2) If an origin mark is an alphanumeric code, it must:
 - (a) appear only once on the retail packaging; and
 - (b) for a cigarette pack or cigarette carton—appear on either:
 - (i) the side outer surface of the pack or carton that does not bear a health warning; or
 - (ii) the bottom outer surface of the pack or carton; and
 - (c) be printed:
 - (i) in the typeface known as Lucida Sans; and
 - (ii) no larger than 10 points in size; and
 - (iii) in a normal weighted regular font; and
 - (iv) in either white or black.
- (3) However, if the origin mark is printed in black, it may include a white background in the form of a rectangle no larger than 20 mm by 5 mm.

(Refer to appendix C)

Question 9. If additional anti-counterfeiting marks are to be allowed, how could these be regulated to ensure they do not communicate to consumers or have any effect that might undermine the intention of standardised packaging?

We suggest by using alphanumeric codes that are meaningless to the consumer, we can continue to use additional anti-counterfeiting measures in the future.

Question 10. Do the regulations need to permit any other marks or features on tobacco product packages to allow for automated manufacturing and packaging processes?

Yes, we believe the regulations do need to permit other marks or features on tobacco product packages to allow for automated manufacturing and packaging processes. I refer to Question 8 and our request that the date of manufacturing code and factory code be allowed on our tobacco packages.

Question 11. Should the regulations allow for the country of manufacture to be printed on tobacco products or packages?

It is essential that we are allowed to print the country of manufacture on our tobacco packages. Cuban cigars are one of the most counterfeited products in the world, by restricting the printing of the country of manufacture on tobacco packages, you are taking away our ability to communicate to the consumer that the products they are purchasing are actually Cuban cigars, and not some inferior, unregulated product constructed without any government oversight.

We note that the draft regulations include a provision to allow for the country of manufacture to be printed on a band around a single cigar, however this does not go far enough to obviate the issue of counterfeit cigars. It is a business necessity that we are allowed to print the country of manufacture on all tobacco packages, being it outer boxes, carton packs, tubes etc.

By not allowing the country of manufacture to be printed on all tobacco packages, the New Zealand Government will directly contribute to a situation whereby criminal enterprises can illegally import unregulated and untaxed cigars constructed with inferior tobacco with no geographical Designation of Origin (DOP) status. These cigars will then be illegally sold to consumers as "Cuban Cigars", with the consumer not able to check on the packaging if indeed the origin of the products they are purchasing is Cuban.

Allowing the country of manufacture to be printed on all tobacco packages is an essential feature of our business and we request that the final regulations include a provision for this, in alignment with the Australia's Tobacco Plain Packaging Regulations 2011

Further comments on the content.

Proposal for single cigars to only be sold in a cigar tube:

We strongly disagree with the proposal that all single cigars can only be sold in a cigar tube.

Currently we import 147 different Cuban cigars into New Zealand. 30 of these cigars are currently sold with an existing cigar tube, which is 20% of cigars are currently imported with an existing cigar tube.

Currently in Australia there are 15 premium hand-made long filler Cuban cigars that are sold with a plain packaged cigar tube and we would be required to implement that same quantity, therefore moving forward only 10% of the total number of premium hand-made long filler Cuban cigars would be imported into New Zealand with an existing plain packaged cigar tube.

The requirement that we would have to make a cigar tube for the remaining 132 different Cuban cigars imported into New Zealand is unworkable.

From the 132 different Cuban cigars that we would import into New Zealand without a tube, there are 76 different shapes and sizes of cigars, necessitating a different tube for each and every one of these 76 cigars. As explained under question 8, the cigars come in various pack sizes, predominantly boxes of 25 and packs of 15. The cigar retailers will take the cigars out of the box and display them individually. The consumer will purchase one or more of these cigars. In Australia, the retailer will place the individual cigar(s) purchased by the consumer into a Plain Package compliant plastic bag. It would be physically and economically impossible for us to make dedicated tubes for each individual cigar size.

We strongly urge you to align this section of the proposed Regulations with Competition and Consumer (Tobacco) Information Standard 2011 in Australia which has already mandated this area into a workable solution.

Specifically, the Australian *Competition and Consumer (Tobacco) Information Standard 2011* states:

2.1 Supply of tobacco product

(1) A tobacco product supplied by way of retail sale must be in retail packaging when it is supplied to the purchaser.

(2) The retail packaging must comply with this information standard.

(3) For a single cigar supplied by way of retail sale:

*(a) the cigar must be in retail packaging when it is supplied to the purchaser;
and*

(b) the cigar must be covered by at least one layer of retail packaging that is not a plastic or other wrapper.

What is achieved by this approach is a large graphic health warning on the plain packaged bags that we produce, economically it is possible to mass produce these bags and have them available for retailers to access and storage becomes a much more workable solution. *(Refer to appendix D)*

To ensure that premium hand-made long filler Cuban cigars can continue to be sold, legally, within New Zealand we implore you to allow single cigars to be sold at retail in bags in alignment with the *solution provided by the Australian Competition and Consumer (Tobacco) Information Standard 2011.*

INSERTS:

We have noted that in Part 12 of the proposed Regulations “A tobacco package must not contain any inserts”.

The Pacific Cigar Company (New Zealand) strongly disagrees with this proposed Regulation and urges it to be amended, to follow the Australian approach to inserts as per below.

The various types of internal packaging (inserts) for Cuban cigars are designed specifically to safeguard the product following exportation from Cuba until reaching the end user, who will either consume the product immediately or store it in the required manner following purchase. This includes the white paper and tissue paper which prevents damage to the cigars from rubbing against the packaging, the sheet of cedar wood which absorbs moisture to ensure the product does not deteriorate and the block of cardboard or wood that ensures the cigars are held firmly in place during transport. The internal packaging of Cuban cigars is unique with respect to its protective qualities. *(Refer to appendix E)*

In Australia’s Tobacco Plain Packaging Regulations 2011, these essential inserts from the packaging of hand-made long filler Cuban cigars have been explicitly acknowledged and included into the Regulations to safeguard the product following exportation from Cuba until reaching the end user

2.6.2 Inserts to avoid damage to tobacco products

(1) Retail packaging of tobacco products, other than cigarette packs or cigarette cartons, may include an insert if the insert is used to avoid damage to the tobacco product during transportation or storage.

(2) The insert must be either:

- (a) white; or
- (b) the colour of the packaging material in its natural state.

Inserts are an integral component of our packaging, ensuring that our premium handmade long filler Cuban cigars are sold to consumers in premium condition. We request that inserts be allowed into the packaging, following Australia’s Tobacco Plain Packaging Regulations 2011.

PREMIUM MACHINE MADE CUBAN CIGARILLOS:

As premium machine made Cuban cigarillos, which are made with 100% natural leaf tobacco with no additives or chemicals, fall under the guidelines of cigarettes in your proposed Bill and Regulations (*refer to Page 10, footnote 14 of the Standardised Tobacco Products and Packaging Draft Regulations*) it is necessary to include these products in our submission. However we do not understand or agree on why you have included premium machine made Cuban cigarillos under the same category as cigarettes.

We refer to the Regulations, Part 3 Interpretation, whereby a cigarette is defined as “a tobacco product comprising a roll of cut tobacco enclosed in paper”. Additionally in the same section a cigar is defined as “a tobacco product comprising a roll of tobacco leaf or cut tobacco enclosed in tobacco leaf or the leaf of another plant”.

By your own definition a premium machine made Cuban cigarillos, which are made of 100% natural tobacco, including being enclosed in tobacco leaf, should not be treated as a cigarette, therefore we believe in the Bill and Regulations that premium machine made Cuban cigarillos must be treated as a cigar.

The Pacific Cigar Company (New Zealand) currently import from Havana, Cuba two different types of cigarillos; Mini cigarillos and Clubs. The difference between these two products, other than specific tastes, is size.

However, should your Bill still treat cigarillos made with 100% of tobacco as a cigarette, we have the following objections/observations;

All premium machine made Cuban cigarillos comes in packs of 20s. If a pack size of only 25 was implemented, it would be impossible to repack into this quantity as it would entail breaking open the existing packaging and attempting to repackage into quantities that is larger than the original pack size and distributed from Havana, Cuba. This would compromise the integrity of the product and is not allowed to by Habanos S.A

Additionally, currently when repacking occurs inside of our bonded warehouse in Hong Kong (which is a necessity) for the Australian market, and as for premium cigars, Hong Kong customs insist that products can only be repacked into the same pack size as sent by the manufacturer, again to preserve the integrity of the product and to ensure that the supply lines of the products is not compromised in any way. For any plain packaging repacking to occur for New Zealand, it must be done in our Hong Kong bonded warehouse and therefore we must be allowed to repack into the same pack size as originally made by the distributor.

Furthermore, and again, should your Bill and Regulations still treat cigarillos that are made with 100% natural tobacco as a cigarette, we also have serious concerns with the standardised pack measurements as detailed in the draft Regulations for cigarette packets, as per below:

23 Dimensions and features of cigarette packs

(1) The shape and size of a cigarette pack must conform to the following requirements:

(a) it must be rectangular:

- (b) it must be no less than 85 mm and no more than 98 mm in height:
- (c) it must be no less than 55 mm and no more than 70 mm wide:
- (d) it must be no less than 20 mm and no more than 30 mm deep

Again you have failed to take into account our specific market sector when drafting these Regulations. Please note the below pack measurements of a pack of 20 premium machine made Cuban cigarillos a pack of 20 premium machine made Cuban clubs:

Minicigarillo's:

Square Shape Packet

Width: 80mm

Length: 88mm

Depth: 19mm

Clubs:

Square Shape Packet

Width: 93mm

Length: 100mm

Depth: 20mm

(Refer to appendix F)

Again, by enforcing a standard pack measurements and by treating cigarillos as cigarettes, you have not adequately taken into account the original packaging size in which the product is dispatched and therefore would be banning the sale of premium machine made Cuban cigarillos in New Zealand. We cannot fit our premium machine made Cuban cigarillos into pack sizes that meet the proposed measurements in the Regulations.

Summary:

In regards to premium hand-made long filler cigars, the proposed Bill and Regulations, as currently written, are impossible to comply with for both the Government of the Republic of Cuba, who own the Cuban tobacco industry, and for The Pacific Cigar Company (New Zealand) Limited.

- **Under the proposed Bill and Regulations premium hand-made long filler Cuban cigars will no longer be able to be sold, legally, in New Zealand.**
- **The proposed Bill and Regulations, as currently written, makes compliance impossible to complete for both the Government of the Republic of Cuba and The Pacific Cigar Company (New Zealand) Ltd.**
- **Customs officials in Hong Kong will not allow repacking of cigars into different pack sizes then as originally sent by the manufacturer.**

The New Zealand Government's current regime of tobacco packaging regulations recognizes the unique nature of the product and in particular the impossibility of applying a one size fits all approach.

However the proposed Bill and Regulations seek to now change this longstanding principle and attempt to apply a one size fits all approach with no regard to the practical impossibilities of this approach. By attempting to align the premium hand-made long filler Cuban cigar industry with the machine made mass market non-premium cigar industry, the New Zealand government will, by misadventure, ban the legal sale of premium hand-made long filler Cuban cigars in New Zealand.

We would like to summarize the changes we urge the Ministry of Health and the Government of New Zealand to consider:

1. For premium cigar, do not standardize and limit the pack size, but allow the packs to be sold singly or in the same size packs as the manufacturer's original packaging. Alternatively, in addition to 5 and 10 cigars in a pack, also allow for 25, 20 and 15 cigars in a pack.
2. For premium cigars, allowed to print the country of manufacture on the tobacco packages.
3. Allow the sale of single cigars without the tube, and instead using bags compliant with proposed legislation.
4. Allow inserts in either white or the colour of the packaging material in its natural state, used to protect the cigars.
5. Treat premium cigarillos made 100% of tobacco as cigars, especially as far as packaging size is concerned, as premium cigarillos do not fit into the standardize cigarette pack.

We have provide reasonable and equitable solutions to the concerns raised in the proposed Bill and Regulations and we strongly urge the New Zealand Government to align any legislation to these solutions so that both the objectives of the Bill and Regulations, and the practical concerns we have raised, can be fulfilled and that premium hand-made long filler Cuban cigars and premium cigarillos can continue to be sold in the New Zealand market.

APPENDIX A

2015 TOTAL SALES OF PREMIUM HAND-MADE LONG FILLER CUBAN CIGARS

PACIFIC CIGAR COMPANY (NEW ZEALAND) LTD

Packaging Size	25's	15's	10's	50's	3's	5's	100's	12's	16's	24's
Percentage (%) of Total Stick Sales per Packaging Size	80.3%	11.0%	5.4%	1.4%	0.7%	0.5%	0.3%	0.1%	0.1%	0.1%
No. of SKU's per Packaging Size	100	32	37	1	2	5	2	1	3	1

APPENDIX B

THE PACIFIC CIGAR COMPANY (NEW ZEALAND) LTD EXISTING PACKAGE MATERIALS



APPENDIX C

THE PACIFIC CIGAR COMPANY (AUSTRALIA) PTY LTD ORIGIN MARKS



**CIGAR
SMOKING
IS NOT
A SAFE
ALTERNATIVE**

Smoking cigars causes death and disease whether you inhale or not. It increases your risk of heart disease, respiratory diseases and cancers of the mouth, throat and lung.

Want help with quitting? Call **Quitline 13 7848**, talk to your doctor or pharmacist, or visit **www.quitnow.gov.au**

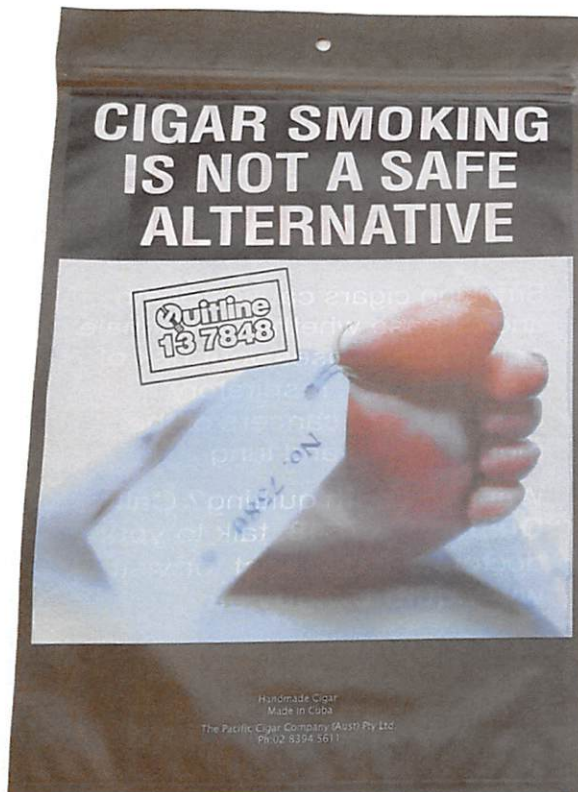
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PMU SEP 15

Romeo Y Julieta
Romeo No.2

Packed for The Pacific Cigar Company (Australia) Pty Ltd.
17/23 Bowden Street, Alexandria NSW 2015

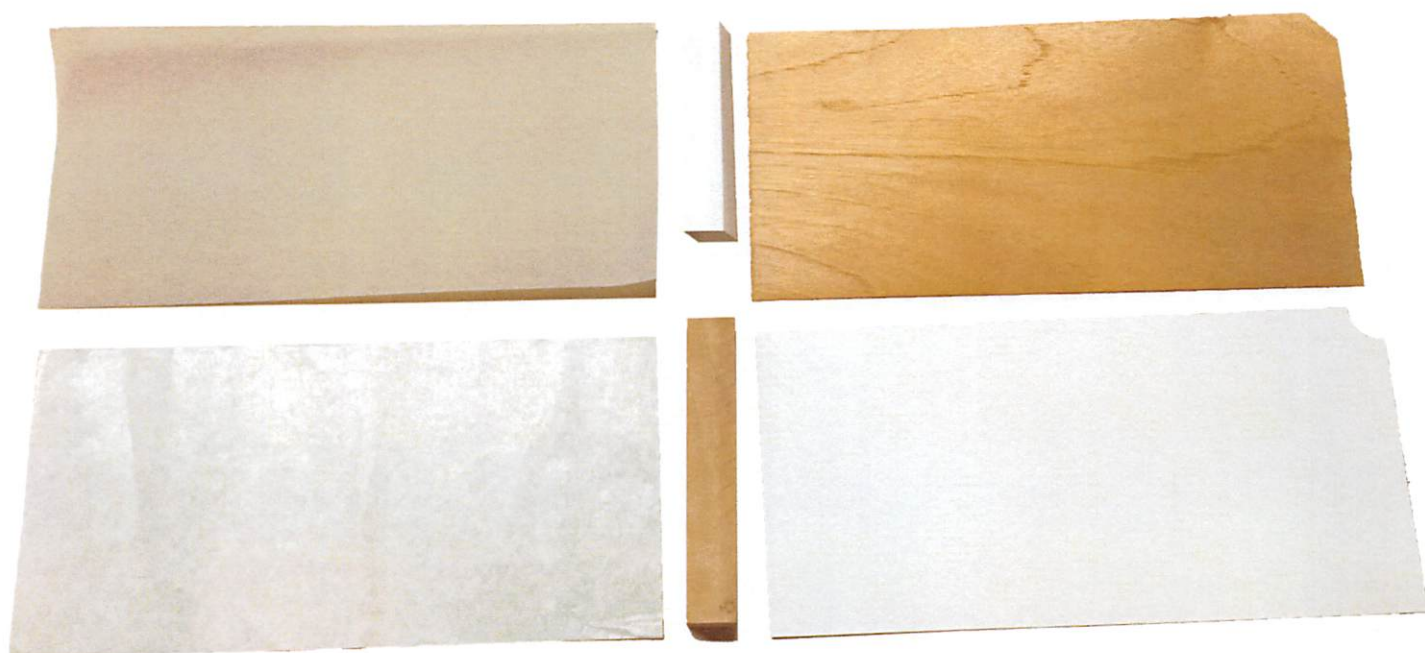
APPENDIX D

THE PACIFIC CIGAR COMPANY (AUSTRALIA) PTY LTD PLAIN PACKAGE COMPLIANT BAGS



APPENDIX E

THE PACIFIC CIGAR COMPANY (AUSTRALIA) PTY LTD PLAIN PACKAGE COMPLIANT INSERTS



APPENDIX F

THE PACIFIC CIGAR COMPANY (NEW ZEALAND) LTD EXISTING CIGARILLO PACKAGING



APPENDIX G

THE PACIFIC CIGAR COMPANY (AUSTRALIA) PTY LTD EXISTING PLAIN PACKAGE MATERIALS

