

Cabinet Committee: Cabinet Social Policy Committee

Title of Paper: Tobacco Plain Packaging

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Issue

1. Australia is introducing plain packaging for tobacco. The Associate Minister of Health is considering options for similar laws in New Zealand. The paper seeks:
 - to confirm Government support for the Australian approach
 - agreement that the government does not wish the Trans-Tasman Mutual Recognition Arrangement (TTMRA) to create any impediment to Australia implementing plain packaging of tobacco
 - Cabinet approval for the Ministry of Health to do the regulatory impact analysis (RIA) to inform a decision on introducing plain packaging regulation in New Zealand.

Ministry Comment

2. Australia is introducing plain packaging for tobacco products as a public health measure. Plain packaging is intended to discourage smoking continuation and uptake by removing brand-specific colours, fonts, and logos from packaging, replacing them with generic plain packaging that maximises health warnings and minimises the impact of brand recognition.
3. Tobacco companies plan to take legal action against the Australian government. They are likely to claim that plain packaging regulation breaches Australian obligations under:
 - a free trade agreement Australia has with Hong Kong
 - the World Trade Organisation (WTO) Trade-Related Aspects of Intellectual Property Rights Agreement and the Technical Barriers to Trade Agreement.
4. New Zealand has the same or similar international commitments as Australia.
5. The RIA will consider New Zealand's options. They are likely to range from harmonising with Australia to implementing a separate regulatory regime. The Ministry of Economic Development will continue to work with the Ministry of Health as they develop the RIA.
6. In the meantime, Australia's plain packaging regulations may affect how easily New Zealand tobacco goods can be sold in Australia. The TTMRA provides that goods that are produced or imported into New Zealand and can legally be sold in New Zealand may also be legally sold in Australia, and vice versa. Australia may invoke a temporary exemption to the TTMRA, or can apply to make a permanent exemption if New Zealand chooses not to implement plain packaging. The Ministry of Economic Development is comfortable with an exemption at the moment because New Zealand is considering following a similar policy direction.

Impacts for Business from the Proposals in this Paper

7. If Australia does not seek an exemption to the TTMRA New Zealand tobacco products could continue to be exported to Australia. If Australia does seek an exemption to the TTMRA New Zealand tobacco processors may need to change their packaging processes.
8. We understand that one New Zealand processor exports to Australia, and they may need to use different packaging for Australia.

Recommendation

9. Support the recommendations.