

Cabinet Committee: Cabinet Social Policy Committee

Title of Paper: 'Plain packaging' of tobacco products

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Issue

1. In September 2011 Cabinet agreed to consider the introduction of plain packaging for tobacco products in 2012. Cabinet requested that the Associate Minister of Health (Hon Tariana Turia) report back on the options with further advice on the regulatory impacts and the implications under trade and investment agreements.
2. A plain packaging regime would impose standard packaging for tobacco products designed to reduce the appeal of cigarettes and to increase the effectiveness of mandatory health warnings. Minister Turia advises that the health benefits of plain packaging will outweigh the regulatory impacts and seeks Cabinet's agreement:
 - to begin public consultation on a plain packaging regime
 - that adopting plain packaging is Cabinet's preferred option for responding to Australia's plain packaging regime
 - to review the current tobacco labelling regulations' health warnings and images.

Ministry Comment

3. The MED interest in this work is the implications of any such regime for the Trans-Tasman Mutual Recognition Arrangement (TTMRA) and our World Trade Organisation (WTO) obligations in relation to intellectual property and technical barriers to trade.
4. The TTMRA is a cornerstone of New Zealand's economic relationship with Australia, and allows goods that can legally be sold in Australia to be sold in New Zealand and vice versa. Australia is also implementing a plain packaging regime, which will take effect on 1 December 2012 and we expect Australia to exempt tobacco products from the TTMRA. This will prevent tobacco products regulated under the current New Zealand regime (with regular packaging) from being sold in Australia.
5. The Ministry of Economic Development is comfortable with Australia using a temporary exemption because New Zealand is considering following a similar policy direction.
6. Tobacco companies have responded to Australia's regime by suing the Australian government for breaching a trade agreement with Hong Kong. In addition Ukraine has begun dispute resolution proceedings against Australia in the WTO. New Zealand has joined Australia's dispute consultations as a third party because of our interests in the outcome of the dispute.
7. MED and the Ministry of Foreign Affairs and Trade (MFAT) have advised the Ministry of Health (MOH) that New Zealand risks similar proceedings if a decision is made to implement plain packaging domestically.
8. While we are confident that a plain packaging regime's design could meet New Zealand's trade obligations, MED and MFAT will monitor progress on the current case and keep MOH informed.

9. MOH proposes to run a public consultation process. This will include meeting WTO consultation requirements by notifying WTO members and seeking their comments.

Impacts for Business from the Proposals in this Paper

10. Plain packaging is designed to reduce consumption of tobacco products by removing trade marks. This would severely restrict tobacco companies' use of their branding on packaging, and, therefore, their ability to distinguish their products in the market. Reduced consumption will affect the profits of tobacco companies and small distributors (such as dairies).
11. Imperial Tobacco has a processing plant in Lower Hutt that is currently expanding to quadruple its exports to Australia this year. This expansion will create 50 jobs. This plant will likely be affected more by the Australian plain packaging regime than a New Zealand regime, as it will be exporting more than double the total New Zealand market for cigarettes.

Recommendation

12. Support the recommendations.