

In Confidence

Office of the Minister of Trade
Office of the Associate Minister of Health

Cabinet Social Policy Committee

STANDARDISED TOBACCO PRODUCT PACKAGING: UPDATE & NEXT STEPS

Proposal

1. The paper reports on international developments relating to standardised tobacco product packaging (also known as 'plain packaging'), and the implications for New Zealand.
2. The proposed next step is to prepare an exposure draft of the regulations needed to define the technical requirements for standardised packaging, and release it for consultation.

Executive summary

3. Cabinet made the policy decision to proceed with plain packaging of tobacco products in February 2013. The Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill was approved for introduction in December 2013. Since then the Bill has been progressing on standard parliamentary timeframes and is now awaiting its second reading.
4. [REDACTED] s.9(2)(f)(iv) [REDACTED] If the Bill is passed late in 2015, it would come into force by default in mid-2017.
5. The Bill is high level legislation only. Additional regulations need to be developed to define the technical requirements for implementing the regime. It is these regulations that will specify the appearance of tobacco products, including the restrictions on tobacco company marketing imagery and use of trade marks.
6. When the legislation was approved for introduction in December 2013, Cabinet noted that decisions on when to pass the Bill or bring the regulations into force would need to take account of the progress in the World Trade Organization (WTO) disputes brought against Australia's tobacco plain packaging regime.
7. The WTO disputes against Australia have not concluded, but there has been progress. [REDACTED] s.6(b)(i) [REDACTED] One of the complainant countries (Ukraine) has withdrawn from the hearings [REDACTED] s.6(b)(i) [REDACTED]
8. Australia's plain packaging regime has been successfully in place since December 2012. There is now a body of post-implementation evidence to show it is working as intended and is reducing the appeal of tobacco products, particularly to young people.
9. In contrast to early tobacco company claims that smoking increased in Australia after plain packaging was introduced, the official statistics now show smoking prevalence and tobacco consumption have both continued to fall significantly. Independent research has also not found evidence of any of the adverse impacts claimed by the tobacco industry.
10. In March 2015 the Republic of Ireland and the United Kingdom became the next two nations after Australia to bring standardised packaging into legislative force, with effect from May 2016.
11. France has similar legislation passing through its parliament, also proposed to come into force in 2016. The incoming government in Canada made an election pledge to bring in standardised tobacco packaging. Several other countries are known to be contemplating the measure. France, Norway and Singapore have notified their intentions to the WTO.

s.9(2)(h)

To date there have been no WTO or ISDS proceedings over the standardised packaging legislation passed in Ireland and the UK in March this year, to come into force in May 2016.

15. This paper therefore proposes taking a next step towards developing the detailed regulations needed to implement standardised tobacco packaging in New Zealand.
16. The specific proposal is to prepare an 'exposure draft' of the regulations for consultation, including notification to the WTO Technical Barriers to Trade Committee. This step would further demonstrate New Zealand's commitment to implementing standardised packaging consistent with our international trade obligations, and provides an opportunity for any concerns or expressions of support to be raised by WTO Members and taken into account when finalising the regulations.
17. The exposure draft approach to consultation means the focus can be squarely on the implementation details and how these should be captured in legal drafting, rather than re-opening the wider policy debate on whether standardised packaging should proceed.
18. The consultation would be undertaken through the Ministry of Health working closely with the Ministry of Foreign Affairs and Trade (MFAT), commencing early in 2016 with a view to finalising the regulations later in the year.
19. A more detailed timeline is attached to this paper in Appendix A. Although this timeline suggests the Bill would be passed early in 2016, it does not pre-empt any decision on when to pass the Bill or when to bring the standardised packaging regime into force.

Background

20. In 2011 the Government adopted the Smokefree 2025 goal. Smoking is still the leading preventable cause of health loss in New Zealand and causes 4,500-5000 premature deaths each year. It is a major factor in health inequality. Government initiatives that successfully reduce smoking rates also contribute to wider social and economic objectives, for example by reducing workforce absenteeism and significantly lifting disposable incomes for smokers who quit. Smoking rates in neighbourhood deprivation quintile 5 (most deprived) are three times higher than in quintile 1 (least deprived).
21. In February 2013 Cabinet decided to introduce a plain packaging regime for tobacco products, in alignment with Australia [CAB Min (13) 4/16 refers].
22. In December 2013 Cabinet agreed to introduce the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill [LEG Min (13) 28/7 refers], and noted:

“8 decisions on when to enact the legislation or when the regulations should come into force will need to take into account the progress of legal proceedings at the World Trade Organisation.”

s.9(2)(h)

24. The Bill has been progressing through the House on standard timeframes, and is currently awaiting a second reading. The select committee reported back in August 2014 just as Parliament rose for the September election. In its report the Health Committee recommended the Bill be passed with only minor amendments – including changing the terminology from “plain” to “standardised” packaging.
25. s.9(2)(f)(iv) The commencement clause will bring the legislation into force 18 months after the Bill is passed, unless it is brought into force earlier by Order in Council.
26. Regardless of when the Bill is passed, the detailed regulations need to also be passed before it comes into force. The regulations are needed to set out the technical requirements to implement standardised packaging, including specific controls on trade marks and tobacco company branding, and requirements for new, larger pictorial warnings. To provide the affected industry with reasonable advance warning and certainty, regulations of this type would normally need to be in place at least 6 months, and ideally 12 months before the Bill comes into force.

International developments

27. Since the last report to Cabinet and the introduction of the Bill to Parliament there have been significant international developments in three areas.
- two more countries (the United Kingdom and Ireland) have passed legislation to implement standardised packaging, coming into force from May 2016
 - there is now a significant body of post-implementation evidence to show that plain packaging is working as intended in Australia
 - there has been progress in the WTO disputes brought against Australia by five (now four) tobacco-producing nations.

Moves to implement standardised packaging in other countries

28. The United Kingdom (UK) and the Republic of Ireland have now both passed all the legislation needed to implement standardised packaging of tobacco products, with effect from May 2016. (Ireland’s legislation allows for non-compliant tobacco products to be sold through at retail level until May 2017). France also has standardised packaging legislation proceeding through its parliamentary processes, intended to come into force in May 2016.
29. Member countries of the European Union (EU) are required to comply by May 2016 with a tobacco products Directive approved in late 2014. The Directive brings in large mandatory pictorial health warnings on tobacco products across the EU. It also expressly permits EU countries to go further and introduce standardised packaging provisions compatible with the Treaty on the Functioning of the European Union and WTO obligations, if they wish.
30. Norway, while not an EU member, is also subject to the EU tobacco Directive under the Europe Economic Area agreement. Norway has just closed a 3-month consultation on its detailed proposal to introduce mandatory standardised packaging of tobacco products. Sweden and Finland are also progressing similar proposals.
31. A number of countries outside Europe (including Canada, Turkey, India, Brazil, Singapore and South Africa) are at various stages of considering standardised tobacco packaging.

32. The incoming government in Canada campaigned on a pledge to introduce plain packaging requirements for tobacco products, similar to those in Australia and the UK.
33. France, Norway and Singapore have taken the formal step of notifying the WTO of their intention to progress standardised tobacco packaging.
34. To date, there have been no WTO or ISDS proceedings against the UK or Ireland's standardised packaging legislation under trade agreements that they or the EU are party to. However, tobacco companies have commenced domestic legal proceedings relating to consistency of the tobacco products directive under English and Irish law and EU treaty law. The UK courts have referred the EU legal questions to the European Court of Justice.

Post-implementation evidence that plain packaging is effective

35. Australia passed its legislation and regulations in 2011 and full implementation took effect in December 2012. There is now a growing body of scientific peer-reviewed research evidence demonstrating that plain packaging is working as intended.
36. Early research during the phase-in period compared smokers who had bought plain packs with others still using the old branded packs. Those smoking from plain packs perceived their cigarettes to be lower quality and less appealing, and reported being more likely to think about and prioritise quitting. Other studies found that the health warnings on plain packs were more effective than before. Research with adolescents and young adults has shown plain packaging significantly reduces the attractiveness and appeal of tobacco products. This is an important factor in reducing experimentation and uptake of smoking.
37. In 2012 the Australian Department of Health commissioned two major pieces of evaluation research to assess the impact of plain packaging. The results were released in a special supplement to the British Medical Journal published in March 2015. This contained ten peer-reviewed research papers and brief reports examining various aspects of the impact of plain packaging, including claims of potential negative impacts. In summary:
 - A follow-up survey was undertaken with nearly 6000 secondary school students in Queensland and Victoria, previously surveyed in 2011 before plain packaging was implemented. This found a significant decrease in the appeal of cigarette packs and brands to adolescents.
 - A national tracking survey of 400 adult smokers and recent quitters was undertaken on a monthly basis, through to one year after implementation. This found the specific objectives of plain packaging (ie, to reduce the appeal of tobacco products, to increase health warnings effectiveness, and to reduce the ability of packaging to mislead about smoking harms) were achieved and generally sustained.
 - The number of smokers making quit attempts has increased significantly - 50 percent higher for smokers surveyed one year after introduction.
 - The large sample follow-up surveys of smokers over the period since plain packaging was implemented found these shifting perceptions have been translating directly into behaviour change that reduces smoking over time.
 - There were also statistically significant increases in reported intentions to quit, and also a range of behaviours that indicate increased concern about smoking, such as smokers increasingly hiding their packs from view, refraining from smoking and stubbing out cigarettes sooner than before.
 - One study found evidence of reduced smoking in public, particularly around children.
38. A number of studies have now tested and failed to find evidence of the unintended negative consequences of plain packaging claimed by tobacco companies (eg, that it would cause an increase in illicit tobacco, or would slow down service in convenience stores). Two studies found retail prices of cigarettes have continued to increase since the introduction of plain packaging, negating suggestions it would cause process to fall.

39. There have been some inaccurate media reports that tobacco consumption and smoking prevalence have increased in Australia since the introduction of plain packaging. These reports were generated from tobacco company studies and data analysis disseminated in an attempt to cast doubt on the effectiveness of plain packaging. The tobacco industry claims have now been shown up as false by the release of official statistics.
40. Recent Australian Bureau of Statistics figures show that between December 2012 and March 2015 total tobacco and cigarettes consumption fell from A\$3.68 billion to A\$3.15 billion - a 14.4 percent decline since plain packaging was introduced. The latest official Australian Institute of Health and Welfare survey results show smoking prevalence amongst all people aged 14 or over declined from 15.1 percent in 2010 to 12.8 percent in 2013. The survey also found the average age at which 14 to 24 year olds smoked their first full cigarette increased from 15.4 years of age in 2010 to 15.9 years of age in 2013.
41. The continued decline in tobacco consumption and smoking prevalence in Australia cannot be attributed solely to plain packaging. Plain packaging is only one of a range of tobacco control policies needed to reduce smoking. The main intended impact of plain packaging is as a longer term measure reducing the uptake of smoking by young people. Other measures, such as large tobacco tax increases supported by public media campaigns, are still likely to be responsible for most of the ongoing reduction in smoking being seen in Australia. However, there is now clear evidence that plain packaging is working as intended. Whereas the claims that plain packaging is having a perverse effect of increasing smoking have been shown to be false.

Progress in Australia's WTO disputes

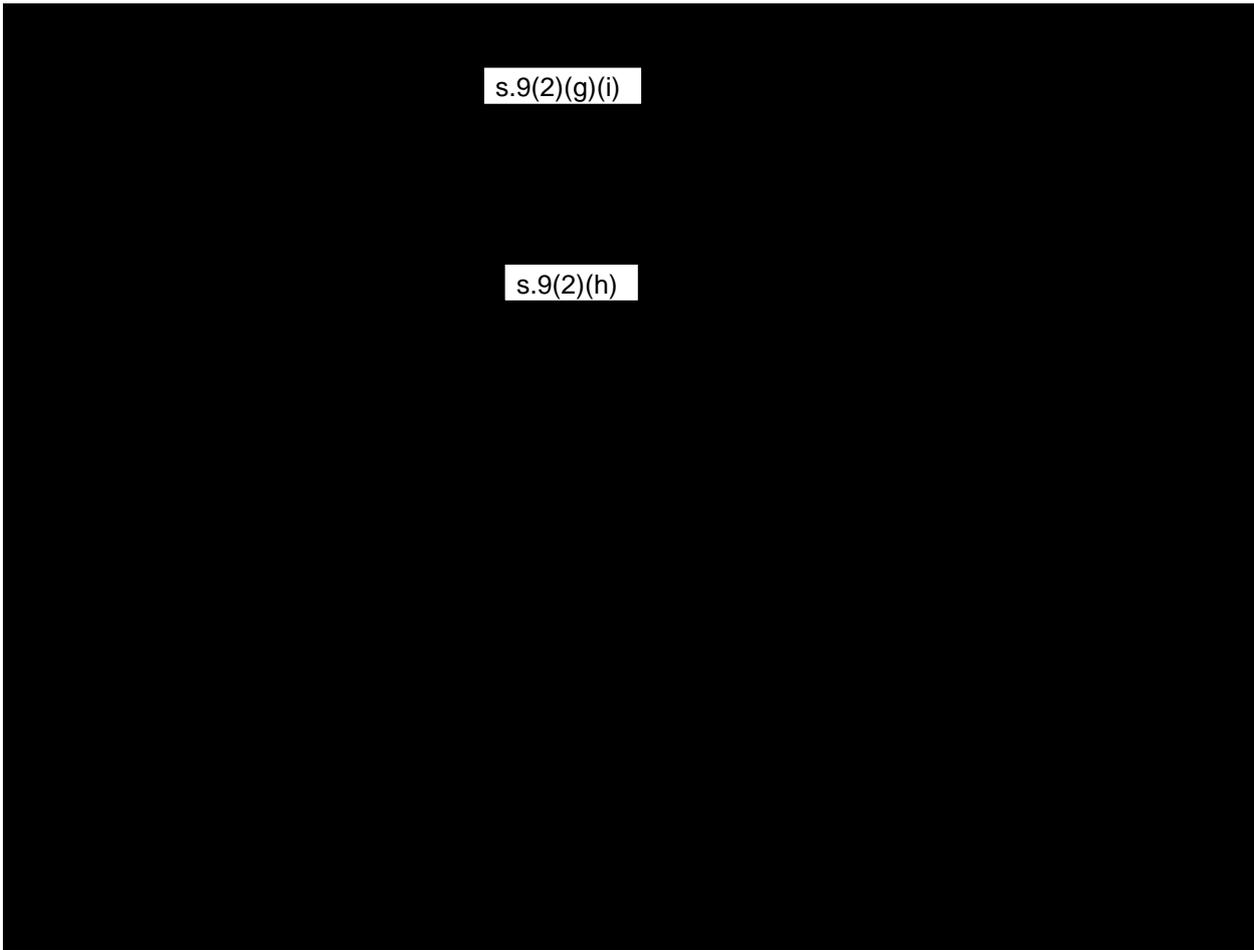
42. Between March 2012 and September 2013, five countries commenced WTO disputes against Australia's plain packaging legislation (Ukraine, Honduras, the Dominican Republic, Cuba and Indonesia). In April 2014 agreement was reached to combine the disputes to be dealt with by a single WTO Disputes Panel. A record number of 39 WTO Members have joined in the five proceedings as third parties.
43. In April 2015 MFAT filed New Zealand's third party written submission and then attended and made further oral statements at the first panel hearing in June.
44. In an unexpected move shortly before the first panel hearing, Ukraine suspended its complaint [REDACTED] s.6(b)(ii) [REDACTED]. This means Ukraine has effectively withdrawn from the case, although under WTO rules it continues to have third party status and has the option of resuming its complaint within the next 12 months. Otherwise the dispute lapses.
45. Following the first panel hearing, officials have made the following assessment:

[REDACTED]
s.9(2)(h)

46. A second panel hearing was held at the end of October 2015 to allow Australia and the complainants to rebut each other's legal arguments. (As a third party, New Zealand could not participate in the second hearing.)
47. WTO's published target timeframes allow 10 months from the commencement of a dispute to a panel ruling, and a further 5 months for a final appeal. It is not uncommon for these timeframes to be pushed out somewhat in WTO disputes, [REDACTED] s.6(a) [REDACTED]

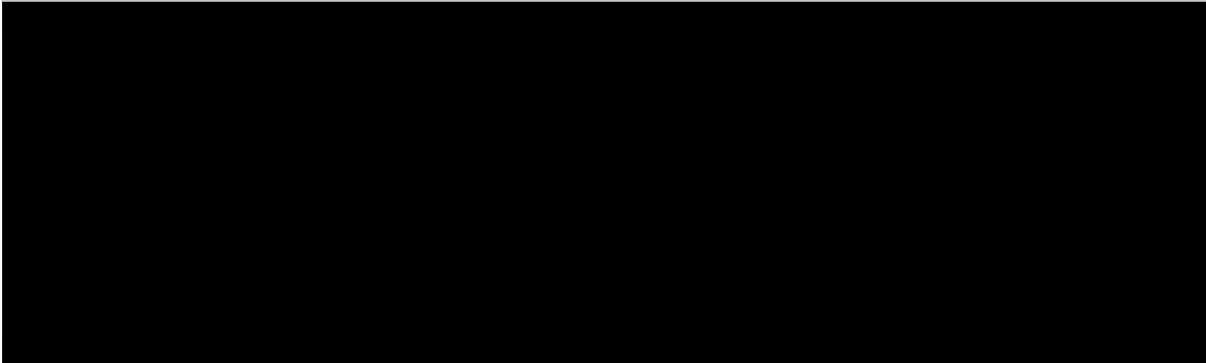
48. When announcements were made in 2013 about New Zealand watching and waiting for progress of Australia's WTO cases, these cases could reasonably have been expected to fully conclude some time this year (2015). Now the WTO panel has publicly advised it will not be issuing a report "before the first half of 2016" – officials are expecting this will be in the second half of 2016.
49. If the panel report is appealed, the decision might not be known until mid-2017, due to the complexity of the cases, the number of parties, and the current heavy case load of the WTO Appellate Body. By that time Australia's regime will have been in place for nearly 5 years, and England will have had standardised packaging in place for around 12 months.

Litigation risk



s.9(2)(g)(i)

s.9(2)(h)



Implications for legislation and implementation in New Zealand

54. In 2013 the Government announced its position that either enacting the legislation or passing the subsequent regulations in New Zealand might be delayed, if necessary, to take account of the progress of the disputes against Australia.
55. Even though Australia's WTO cases are taking longer to resolve than originally expected, and if appealed may not be finally concluded before mid-2017, there has been progress. The evidence that the measure is proving effective [redacted] s.9(2)(h) [redacted] and the fact that other major countries are moving ahead of New Zealand to implement standardised packaging, indicate there is as yet no clear need to delay.

[redacted]
s.9(2)(h)

57. If developed under normal timeframes, the earliest that New Zealand's regulations would be ready to be passed is the second half of 2016. By then the UK and Ireland will have standardised packaging in force and the WTO dispute panel should have reported on Australia's cases.
58. The regulations would not come into force until the legislation itself comes into force. If the Bill is passed towards the end of 2015, the earliest it would need to come into force is 18 months later, around April-May 2017. This is about the same time as the result of any WTO appeal in Australia's cases should be known. If the Bill is passed during the first half of 2016, it would not come into force until the equivalent point in the second half of 2017.
59. [redacted]
[redacted] s.9(2)(h) [redacted]
[redacted] Further detail on timeline issues is contained in Appendix A.

60. The Government could also decide to pass the regulations nearer to the time the legislation comes into force. [redacted]

[redacted] s.9(2)(h) [redacted]

61. [redacted]
[redacted] s.9(2)(g)(i) [redacted]
[redacted] the ISDS provisions in the Korea-New Zealand Free Trade Agreement recently garnered significant attention from the House and media, and similar scrutiny and criticism featured strongly in public debate during the TPP negotiations. Supporters of plain packaging would also be quick to point out that if the Bill is not passed until after Australia's WTO disputes are fully resolved, and draft regulations are not developed in the meantime, then standardised packaging could not come into force before 2019, seven years after the decision was taken to proceed.

Next steps

62. Regardless of when the Bill is enacted, moving forward to develop the regulations that will eventually be needed to bring the regime into force is a logical next step.

63. The new standardised packaging regime will apply to manufacturers, importers, and those involved in packaging from the date of coming into force. Normally it would be considered ideal for the regulations to be promulgated within six months of enactment, to allow a period of twelve months for manufacturers, importers, and packagers to be informed of the legal requirements and bring their printing and packaging processes into compliance.
64. There have been two previous rounds of public consultation: on the plain packaging policy proposal in 2012, and the select committee phase of the Bill in 2014. These processes have provided ample opportunity to air the opposing viewpoints on the policy.
65. It is therefore proposed that Parliamentary Counsel Office (PCO) be instructed to prepare draft regulations on standardised packaging under the Smoke-free Environments Act 1990 as an exposure draft for consultation. This approach will help focus the consultation on technical implementation details and the way these are captured in the legal drafting.
66. The exposure draft would also be notified to the WTO Technical Barriers to Trade (TBT) Committee. This step provides an opportunity for any genuine trade-related concerns to be raised and considered for inclusion in the final regulations. This would further demonstrate New Zealand's commitment to implementing standardised packaging consistent with international trade obligations, s.9(2)(h). Many WTO members would likely express support for New Zealand.
67. Developing regulations in the meantime also provides greater flexibility to potentially reduce the time needed after the legislation is passed before the regime comes into force, as the regime can be brought into force earlier than 18 months by Order in Council.
68. The regulations will need to specify the detailed requirements for tobacco product design, appearance, packaging and labelling (including improved graphic warnings). The new regulations will replace the Smoke-free Environments Regulations 2007 and incorporate existing regulations not related to standardised packaging or warning messages.
69. This is likely to require 30-50 clauses of legal drafting, and the development of schedules setting out specific technical requirements and exemplars (for example of materials, images and messages to be used), and also required forms, reports, returns and notices.
70. Given the complexity of the legal drafting PCO will need time to prepare the exposure draft of regulations. Officials propose the consultation could be undertaken over March-June 2016 followed by a report back on the outcome of the consultation and next steps.

Content of regulations

71. In February 2013, Cabinet [CAB Min (13) 4/16 refers]:
 - "7 agreed to introduce a plain packaging regime for tobacco products and packaging in New Zealand which is in alignment with Australia;" and
 - "8 noted that there will be some minor features, such as the warning messages in Te Reo Māori and the New Zealand Quitline number, that would be different from Australia".
72. The starting point is still the scheme as implemented in Australia. However, it is now possible to make some minor improvements, based on post-implementation experience in Australia, issues raised during the select committee consideration of the Bill, and also to incorporate some improved approaches subsequently adopted in Ireland and the UK.
73. It is proposed that New Zealand adopt the background colour; font type and size for markings; the size and placement of warnings; and most other provisions that are required in Australia. However some existing New Zealand-specific requirements, such as yellow backgrounds for warning messages in English, should be retained.

74. Australia requires cigarette packs to have standardised shape, surfaces and openings and it is proposed that these requirements generally also be adopted in New Zealand. In addition, it is proposed to introduce a number of inter-related recommendations to more tightly standardise the size of cigarette packages. This involves the:
- number of cigarettes in a pack (standardised to the most common 20s or 25s)
 - minimum and maximum height, width and depth of packages (maximum dimensions to be less than those allowed in Australia, where larger pack sizes are more common)
 - maximum thickness of liners to prevent the packing out of packets; and
 - minimum and maximum diameter, and maximum length of cigarette sticks.
75. It is proposed that requirements for loose tobacco should be more tightly prescribed than in Australia, so that loose tobacco can be sold only in amounts of 30g or 50g in soft plastic pouches with a flap. This would prevent tobacco companies using other shapes, sizes or materials to increase the attractiveness of loose tobacco, which is a much larger proportion of tobacco sales in New Zealand than in Australia.
76. It is proposed to follow the UK and Ireland in proposing fewer requirements for cigars than Australia. [REDACTED] s.9(2)(g)(i) [REDACTED]
77. As a result of implementation experience in Australia, it is also proposed that New Zealand goes further than other jurisdictions in restricting the space available for new multi-word brands and brand variants, and also restricting the use of new evocative names for tobacco products that might be used in future to try and circumvent the objectives of standardised packaging.
78. [REDACTED] s.9(2)(g)(i) [REDACTED] The exposure draft consultation process provides an opportunity for the pros and cons of each specific measure and their combined effect to be assessed in more detail (including in light of New Zealand's international obligations) before the Government makes any final decisions.
79. Research is also underway to ensure that warnings required to be displayed on tobacco packages are refreshed in order to have maximum impact on target populations. This will involve some new pictorial images and more targeted calls to action on quitting. At this stage, it is not proposed to consult on the specific content of these health warnings as further work is required to finalise them. The exposure draft regulations will however be able to make clear the general requirements for displaying the images and messages on standardised tobacco products and packages.
80. The detailed regulatory requirements for standardised tobacco product packaging being proposed for inclusion in the exposure draft of the regulations are set out in Appendix B.

Consultation

81. This paper was prepared by the Ministry of Health, in consultation with the Ministry of Foreign Affairs and Trade, the Ministry of Business, Innovation and Employment, the Ministry of Justice, the New Zealand Customs Service and the Treasury. The Department of the Prime Minister and Cabinet was informed.

Financial Implications

82. There are no financial implications from this paper. All work required to complete the consultation and regulatory process will be met from current departmental resources.

Human Rights

83. The regulations will be made to be consistent with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

84. This paper proposes the development of an exposure draft of new regulations consistent with the provisions of the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill which is currently before Parliament. The exposure draft is intended for the purposes of consultation only, and has no legislative effect.

Regulatory Impact Analysis

85. The regulatory impact requirements relating to plain packaging were satisfied before Cabinet made its decision to proceed with legislation [CAB Min (13) 4/6 refers]. A Regulatory Impact Statement (RIS) was submitted when Cabinet agreed in principle to proceed [SOC Min (12) 5/4 refers] and an updated RIS was submitted to support the final decision, following consultation [CAB Min (13) 4/6 refers]. Both have been published.

Gender Implications

86. It is not considered that standardised tobacco product packaging will have any significant gender implications. Women have a slightly lower daily smoking rate than men.

Disability Perspective

87. It is not considered that standardised packaging of tobacco products will have any adverse effect from a disability perspective. Over time disability as a result of smoking-related diseases would be reduced.

Publicity

88. A media release will announce that exposure draft regulations are to be issued for public consultation. This announcement may also convey the Government's intentions over the timing for passing the Bill. When consultation commences a full set of materials will be placed on the Ministry of Health's website, and key stakeholders will be alerted.

89. It is proposed that this Cabinet paper and minuted decisions also be proactively released at an appropriate time, subject to material being redacted consistent with the Official Information Act 1982, for example to protect international relations and maintain legal privilege of advice relating to litigation risk under trade and investment agreements.

Recommendations

90. The Associate Minister of Health (Hon Peseta Sam Lotu-liga) recommends the Committee:

Background

1. **note** that in February 2013, Cabinet agreed to introduce a plain packaging regime for tobacco products and packaging in New Zealand which is in alignment with Australia [CAB Min (13) 4/16];
2. **note** that in December 2013 Cabinet:
 - 2.1 approved the introduction of the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill;
 - 2.2 noted that decisions on when to enact the legislation or when the regulations should come into force will need to take into account the progress of legal proceedings at the World Trade Organization [LEG Min (13) 28/7 refers];

International developments

3. **note** that New Zealand is participating as a third party in World Trade Organization (WTO) proceedings over Australia's tobacco plain packaging regime, and has had access to legal arguments and evidence submitted by the complainants and Australia;
4. **note** that officials consider that:

s.9(2)(h)

- 4.4 if the WTO disputes are appealed the WTO Appellate Body's decision may not be issued before mid-2017;
5. **note** that the United Kingdom and Ireland have both passed detailed legislation to bring standardised packaging into force with effect from 20 May 2016;

Implications for legislation and implementation

6. **note** that the Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill
 - 6.1 holds a category 3 priority on the 2015 Legislation Programme (to be passed if possible in 2015);
 - 6.2 has a commencement clause brings it into force by default after 18 months;
 - 6.3 requires detailed regulations to be made to bring implementation into effect;

s.9(2)(h)

Proposal to issue 'exposure draft' of regulations

10. **approve** the Ministry of Health to issue instructions to the Parliamentary Counsel Office to prepare an 'exposure draft' of standardised packaging regulations to reflect the requirements of the Bill and the policy outlined in this paper (in the section headed 'content of regulations' and in Appendix B), including any necessary forms, reports, returns or notices;
11. **direct** the Ministry of Health to undertake a consultation process during the first half of 2016 on the exposure draft of the regulations, in conjunction with the Ministry of Foreign Affairs and Trade, and report to SOC on the results of the consultation and next steps;

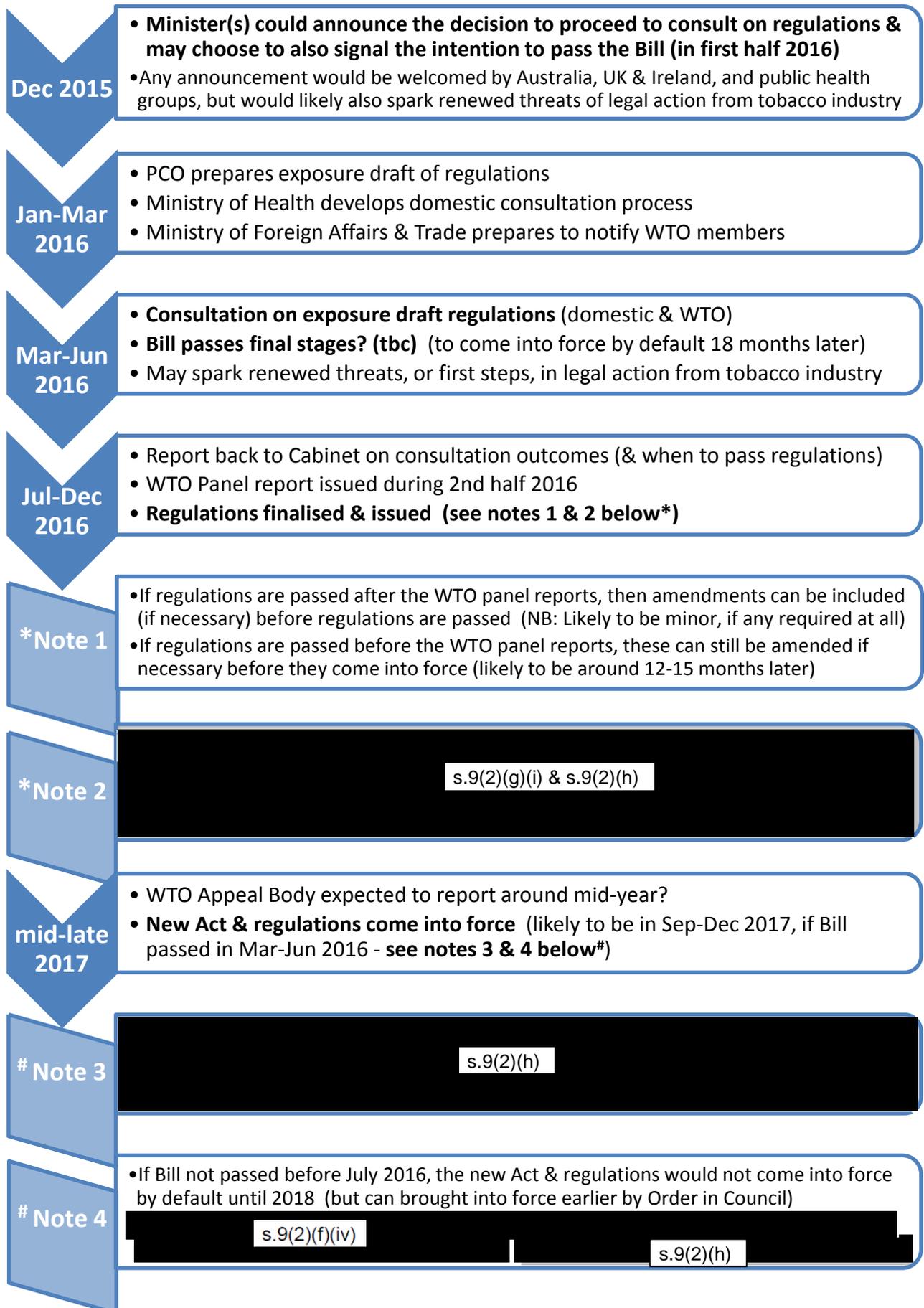
Release of Cabinet paper

12. **agree** that this Cabinet paper and minuted decisions be proactively released in due course, subject to any material being withheld as necessary as if a request for release had been made under the Official Information Act 1982.

Hon Tim Groser
Minister of Trade

Hon Peseta Sam Lotu-liga
Associate Minister of Health

Appendix A: Indicative timeline to bring standardised packaging into force



Appendix B

Detailed regulatory proposal for standardised tobacco packaging and products

The regulations will need to specify the detailed requirements for tobacco product design, appearance, packaging and labelling (including improved graphic warnings).

The proposed contents of the draft regulations for New Zealand are as set out below:

Packaging (and components of packaging)

- Cigarette packs must be rectangular in shape, made out of rigid cardboard, and have flat surfaces with no irregularities. Adjoining surfaces must meet at 90° angles with rigid straight edges. The pack dimensions must be within the range of 85-98 mm in height, 55-70 mm in width, and 20-30 mm in depth. Packs may have only one method of opening and closure, by means of a straight edged flip-top lid which is hinged at the back.
- Loose tobacco packages must be rectangular soft plastic pouches that have flat surfaces with no irregularities. The opening flap may be sealed by a re-sealable transparent tab.
- Cigar packages must have flat surfaces with no irregularities.
- Cartons (containing 10 packs of cigarettes) may have serrations at opening edges.
- Tobacco package wrappers must be smooth and transparent and not textured or coloured. Wrappers must be free of any marks or trade marks except for tear strips and markings referred to below. Tear strips may be up to 3 mm wide, they must be transparent or partially or fully coloured in Pantone 448C and they must be located at the bottom edge of the lid without obscuring any required labelling.
- Tobacco package wrappers that cover more than one item may have a rectangular bar code, coloured Pantone 448C on a Pantone Cool Gray 2C background, and may be marked with a Pantone 448C rectangle to conceal individual bar codes of wrapped items.
- Linings of cigarette packs must comprise foil of a thickness not greater than 0.5mm, coloured matt Pantone 448C and may only have texturing to the extent necessary for the purposes of automated manufacture. Linings of loose tobacco pouches must be transparent and not coloured, and made of plastic.
- Tobacco packages may not contain inserts (except where permitted or required by the health warning regulations).
- Glues and adhesives used for tobacco packages must be transparent and not coloured.
- The outer surfaces of primary tobacco packages must have matt Pantone 448C as background colour, except for regulated markings specifying different colours.
- The inner surfaces of cigarette packs must be coloured matt Pantone 448C or the natural or untreated colour of the cardboard (and, for the avoidance of doubt, not white).
- No noise or scent may be associated with a tobacco package that could promote the product or could be taken to constitute advertising, or is not normally associated with packaging or smells from permitted additives.
- Features that change appearance of a tobacco product after sale are not permitted.
- Loose tobacco and cigar packs may have non-removable adhesive labels affixed to them in order to display required markings.

Contents and products

- Cigarette packs may only contain either 20 or 25 cigarettes.
- Loose tobacco packs may only contain either 30 or 50 grams of manufactured tobacco.
- Cigars may be sold singly in cigar tubes, or in packs containing 5 or 10 cigars.
- Cigarette sticks must be plain white and filter tips must be plain white or imitation cork
- Cigarette sticks may have a printed code on one line horizontally across the stick within 10 mm of the filter or one end of the stick, provided that this complies with the general text

requirements*, limited to a maximum of 8 point font size, and that no other information is conveyed to the consumer.

- Tobacco contained in all tobacco products must be a natural tobacco colour.
- Cigars may have a firmly fixed adhesive band covering non complying markings that may display a single code and a compliant anti-counterfeiting mark, provided that this complies with the general text requirements*, limited to a maximum of 8 point font size, and that no other information is conveyed to the consumer.
- Cigarettes must be cylindrical with flat ends, have a diameter 7mm - 9mm, and a maximum length of 95 mm.
- Tobacco products may have only natural tobacco or menthol smells and the tobacco leaf must be only the natural colour of tobacco.

Markings and printing

- Any text or alphanumeric marking must be coloured Pantone Cool Gray 2C and may only be printed in the typeface Lucida Sans using a normal weighted regular font. The only characters permitted to be printed are the 26 letters ('a' – 'z'), the 10 numerals ('0' – '9') the ampersand ('&'), and the 'at' character ('@' – but only for email addresses). Capital letters may only be used as the initial letter for proper nouns or for the first word of a sentence.
- Brand and brand variant names may appear on the front surface and the two smallest surfaces of cigarette packs, and on the front and back surfaces of loose tobacco and cigar packs. They must appear below regulated warnings and in the same orientation, may only take up one line each, must not be within 10 mm of an edge, and must not obscure required markings. Brand names are limited to a maximum 14 point font size, and brand variant names limited to a maximum of 10 point font size.
- A bar code may appear once on a package, on one of the surfaces of a cigarette or cigar pack that does not have a health warning, or on any surface of a loose tobacco pack. Bar codes must be rectangular and coloured black or Pantone 448C on a Pantone Cool Gray 2C background.
- The number of cigarettes ("20" or "25") or cigars in a package or the weight of tobacco in a loose tobacco package ("30 g" or "50 g") may appear on any surface that has brand markings, limited to a maximum of 10 point font size.
- Anti-counterfeiting marks may appear on any surface that does not contain required warning messages provided that, if any such marks are visible to the naked eye, they comply with text requirements set out in the first bullet point above, limited to a maximum of 8 point font size, and that no other information is conveyed to the consumer.
- Manufacturer contact information (name, address, email, telephone number) may appear on the rear surface of a tobacco pack or on a side where a barcode is, limited to a maximum of 10 point font size.
- A calibration mark may appear provided that it is for automation purposes only, is as inconspicuous as possible, and does not promote the product.
- The warning messages on cigar packs or tubes must cover 95 percent of their length and 60 percent of their circumference.
- Warning messages in English and parts of explanatory text must be in black letters on a yellow background. Warning messages in te reo Māori, quitting explanatory messages, and information messages must be Pantone Cool Gray 2C letters on Pantone 448C background.
- New draft regulations may specify any warning messages that comply with section 32 of the Act including mandatory Quitline messages and an optional "Ministry of Health Warning" statement. Warning images may vary from front to back.
- Required warnings must comprise 75 percent of the front surface of tobacco packs, 90 percent of the rear surface of cigarette packs, 75 of the rear surface of loose tobacco and cigar packs and that percentage of other surfaces as is specified in the Smoke-free Environments Regulations 2007.

* The general text requirements are set out in the first bullet point of the section headed *Markings and Printing*