1 October 2012

Plain Packaging Consultation

Ministry of Health

Sent via e-mail to: tobacco@moh.govt.nz

RE: PROPOSAL TO INTRODUCE PLAIN PACKAGING OF TOBACCO PRODUCTS IN NEW ZEALAND

Thank you for the opportunity to provide feedback on this consultation.

The Pharmacy Guild of New Zealand (Inc.) (the Guild) is a national membership organisation representing the majority of community pharmacy owners. We provide leadership on all issues affecting the sector and advocate for the business interests of community pharmacy. The Guild is a member of the Smokefree Coalition, and a health partner of Smokefree. We believe that pharmacists can play a significant role in helping patients quit smoking.

The Guild supports the proposal. Our support is based on the experiences of our members and our belief that community pharmacy can make a major contribution to the Government's goal of making New Zealand essentially a non smoking nation by 2025. We agree with the Ministry of Health (the Ministry) assessment of the impact of marketing on the prevalence of smoking and agree with the proposed methods to modify it. Our submission discusses our agreement with the proposal and the role that community pharmacy can play in contributing to the Government's 2025 target. We also recommend that the Ministry makes the greatest possible use of Australia's experience of the plain packaging of tobacco products.
Statement of support

The Guild supports all aspects of the proposal to introduce plain packaging of tobacco products in New Zealand, as detailed in the Ministry's consultation document. We recognise that tobacco is a harmful, addictive substance that poses a threat to public health. Smokers and other people exposed to their smoke experience additional health problems and higher rates of various diseases. The Guild strongly supports initiatives that aim to improve public health by reducing the prevalence of smoking and the rate of associated disease. We fully endorse this proposal that is designed to:

- discourage people from starting smoking
- encourage smokers to give up smoking
- make it easier for people who are giving up smoking
- increase the chances that former smokers remain abstinent

The basis for our support

The Guild's support for this proposal is based on the experience of its members. Community pharmacists are well placed to appreciate the negative health impacts of smoking. As the health professional that the public sees most often, they become very familiar with their patients' health status. In many cases, damage that smoking has caused to a smoker's health is readily apparent but the medication that they take is also indicative of this damage.

In addition to being in a position to recognise the harm that smoking causes, pharmacists have a great deal of contact with smokers when they attempt to stop smoking. Community pharmacy offers an economical and readily accessible way to help smokers quit. Community pharmacists are highly trained health professionals, available without the need for an appointment.

In fact, community pharmacists have been playing an increasingly important role in supporting smokers as they try to stop smoking. Traditionally, pharmacies have sold and dispensed various therapies to smokers to help them give up their habit. Offering guidance, support and encouragement to smokers has always been part of the service that community pharmacies provide. Smokers who are less motivated or who have been unsuccessful in previous attempts to stop, can find great value in the empathetic environment that community pharmacies provide. There are now many types of nicotine replacement therapy (NRT) and over recent years new classes of smoking cessation
medicines have become available. As the medicines experts, pharmacists are well placed to advise smokers of the medicines options available and to support patients in smoking cessation.

Community pharmacy can contribute to the successful use of all smoking cessation therapies and improve their efficacy. Patients benefit from explanations of what to expect and how best to use a medicine. If there are any risks in the various therapies they can be anticipated and mitigated.

The most recent development has been in Canterbury, where community pharmacists and other pharmacy staff members are now able to prescribe subsidised NRT. The Quit Group developed Quitcards as one way in which smokers who were giving up smoking could easily talk to a facilitator, access a recommendation for NRT and be provided with it at minimal cost. Quitcard providers are trained and are widely distributed throughout the community but pharmacists and pharmacy technicians who were practicing in a community pharmacy were specifically excluded. The Guild has consistently recommended that pharmacists should be Quitcard providers so as to improve access to NRT. The decision to allow Canterbury community pharmacies to train as smoking cessation providers and to supply NRT via Quitcards came into effect on 1 May 2012. Within the first month 82 out of the 108 pharmacies in Canterbury had registered to provide Quitcards and NRT and 361 staff had completed the training.

Pharmacists in Waikato are also able to prescribe NRT and advise on smoking cessation. In a programme facilitated by the Midland Community Pharmacy Group and funded by the Waikato District Health Board, pharmacists are trained in the provision of cessation advice and NRT. Patients visit community pharmacies to consult their local pharmacist and discuss their smoking, the health benefits of quitting and issues related to remaining smokefree. If appropriate, the pharmacist can then prescribe and dispense NRT. There is a follow-up meeting after a month to check progress and supply a further month’s treatment. Many patients in Waikato have used the programme to completely stop smoking. The pharmacists involved have gained significant insights and practical experience about the addictive nature of tobacco and the barriers to stopping smoking.

The proposal!

We support the Ministry's interpretation of evidence that brand imagery and other marketing devices on packaging increase the attractiveness of tobacco to certain demographic groupings. Similarly, we support the Ministry's interpretation of evidence that the appearance of packaging can reduce the effectiveness of health warnings and
instil false beliefs around tobacco's harmfulness. We agree with the Ministry’s intention to tightly regulate every aspect of the appearance of tobacco products. We agree with the Ministry’s intention to prevent any form of marketing, promotion or advertising from occurring on tobacco products and tobacco product packaging. This will hamper tobacco manufacturers’ ability to use packaging and appearance to promote and encourage smoking and should help to reduce the rate of smoking. The Guild also agrees with the Ministry’s intention to regulate the appearance of tobacco packaging in order to maximise the noticeability and effectiveness of health warnings and images.

Our recommendation

We strongly agree that the appearance of packaging and products increases the attractions of tobacco and smoking. We believe that the Ministry is best placed to determine exactly how appearance ought to be controlled to reduce tobacco’s attractions. We recommend that the maximum use should be made of Australian experience, investigation and research. For instance, that we should follow Australia’s decision to make health messages cover 75% of the front cover of a pack. We suggest that 75% coverage could become the default regulatory position in New Zealand, unless particular New Zealand based research showed it was inappropriate.

To summarise, the Guild supports the proposal and agrees with its intentions. We commend the Ministry on this initiative and look forward to the policy succeeding in reducing the prevalence of smoking in New Zealand and benefiting our health.

Thank you for taking the time to read our feedback. If you have any questions about our feedback, please contact our Guild Policy Advisor, Jasmine Freemantle, at jasmine.freemantle@grNZ.org.nz or 04 802 8205.

Yours sincerely,

Karen Crisp
Official Information Released Under the ACT
Submission to the Ministry of Health on the
Proposal to introduce plain packaging of tobacco products in New Zealand

To: Plain Pack Consultation
    (tobacco@moh.govt.nz)
    Tobacco Control Programme
    Ministry of Health
    PO Box 5013
    Wellington

Date: 01/10/12
Submitter details
You do not have to answer all the questions or provide personal information if you do not
want to but you are asked to declare any direct or indirect links to the tobacco industry.
Do you have any direct or indirect links to the tobacco industry?
    Yes
    No
If Yes, please comment on the nature of these links.

Student ASH is the student led branch of ASH NZ (Action on Smoking and Health). We are
an organisation made up of medical, pharmacy and nursing students, both from the
University of Auckland and the University of Otago.

The driving force behind the formation of Student ASH was a growing frustration that we
could not do enough to improve the health of our patients through clinical treatment alone.
Every day we continue to see the tragic and preventable harm which smoking causes.
While smoking cessation advice and support is very important, despite our best efforts, we
can only help the patients that we meet. Robust and convincing policy change at a
government level is key to reducing smoking rates, and improving the health of all New
Zealanders.

We congratulate the government on inviting consultation on the proposed plain packaging
regime and ultimately to their commitment to a Smokefree Aotearoa by 2025.

Every year over two thousand Kiwi kids under the age of ten take their first puff on a
cigarette. Nicotine makes tobacco products highly addictive, and young smokers can show
signs of addiction after only one cigarette. It is unjustified to allow the tobacco industry to
continue using cigarette packs to attract and communicate the 'personality' of their brands
to children and young people. Young smokers are very responsive to tobacco branding
and brand imagery, which facilitates smoking experimentation. Four out of five current
smokers aged 15-64 years said they would not smoke if they had their life over again.

As health students our learning is guided by evidence based medicine. According to the
World Health Organization, plain packaging is effective in preventing smoking uptake and
relapse as is wholly supported by a systematic review of 37 research studies on the impact
of plain packaging. This independent review commissioned by the UK Government’s
Department of Health to provide a comprehensive overview of the evidence described the
following key functions of plain packaging:

• It reduces the appeal of packaging or product;
• It increases the salience and effectiveness of health warnings;
• It takes away the perception of products strength and harm.

Tobacco is a highly addictive product which should be treated as the dangerous substance it is - imposing harm on both the smoker and their whanau when used exactly as the manufacturer intended.

This submission was completed by:
(Name)
Address:  

Email: @aucklanduni.ac.nz
Organisation (if applicable): Student ASH
Position (if applicable):  

Are you submitting this as (Tick one box only in this section):
an individual (not on behalf of an organisation)
on behalf of a group or organisation(s)

Your submission may be requested under the Official Information Act 1982. If this happens, the Ministry of Health will release your submission to the person who requested it. However, if you are an individual as opposed to an organisation, the Ministry will remove your personal details from the submission if you check the following box:

I do not give permission for my personal details to be released under the Official Information Act 1982.

The public report on the consultation will seek to avoid prejudice to the commercial position of respondents who provide commercially sensitive information. Submitters are therefore asked to clearly indicate any information they wish to have treated as confidential commercially sensitive information.
2 October 2012

Plain Packaging Consultation
Ministry of Health
PO Box 5013
Wellington

By email: tobacco@moh.govt.nz

Proposal to Introduce Plain Packaging of Tobacco Products in New Zealand

The New Zealand Medical Association (NZMA) is pleased to see that the Government is taking seriously the preventable harm caused by smoking and is actively taking steps to reduce the number of people in New Zealand who smoke. We view the proposed move to introduce a plain packaging regime for tobacco products as a positive move and one which we fully support.

In the face of restrictions having been placed on tobacco advertising and promotion, tobacco packaging has become the primary vehicle for communicating brand image. Unlike most other consumer products, cigarette packs remain with users once opened and are repeatedly displayed in social situations, thereby serving as a direct form of mobile advertising for the brand.

Packaging also serves as a link to other forms of tobacco advertising. For example, packs play a central role in point-of-sale marketing and help to increase the reach of “below the line” marketing activities, such as concerts and nightclub promotions.

While the move to require all tobacco products to display health warnings is to be applauded, some brands are trying to minimise the impact of these by incorporating the colour schemes of graphic health warnings into the overall colour and design of the entire pack. This causes the warnings to become less salient since they blend in with the overall pack design.

2 Hammond, D “Plain packaging” regulations for tobacco products: the impact of standardizing the color and design of cigarette packs” Salud Publica Mex 2010;52 suppl 2:S226-S232
http://scielo.unam.mx/pdf/srpm/v52n2/a18v52s2.pdf
3 Above n1
The NZMA sees the move to plain packaging of cigarettes to be the next logical step in the overall campaign to reduce the number of people smoking by reducing the effectiveness of brand advertising.

Yours sincerely

[Signature]

Dr Paul Ockelford
Chair, NZMA
Submission on Proposal to Introduce Plain Packaging of Tobacco Products in New Zealand

This form has been provided to assist submitters respond to the specific consultation questions set out in the consultation document. It is not intended to limit or constrain submissions in any way. Submitters may prefer to raise other issues or address the questions in other ways. All written submissions in any form received by the closing date will be considered in full.

Submissions close on Friday 5 October 2012 at 5 pm.

Please email your submission to:

   tobacco@moh.govt.nz

and put ‘Plain packaging consultation’ in the subject line.

Alternatively you may post your submission to:

   Plain Packaging Consultation
   Tobacco Control Programme
   Ministry of Health
   PO Box 5013
   Wellington 6145

Submitter details

You do not have to answer all the questions or provide personal information if you do not want to but you are asked to declare any direct or indirect links to the tobacco industry.

Do you have any direct or indirect links to the tobacco industry?

☐ Yes

☐ No

If yes, please comment on the nature of these links.

No.
This submission was completed by: 
(name) Ellie Ngatai

Address:  
(street/box number) 111 Palmerston St  
(town/city) Westport

Email: smokefree@bullerreap.co.nz

Organisation (if applicable): Buller REAP

Position (if applicable): Smokefree youth coordinator

Are you submitting this as:
(Tick one box only in this section)

☐ an individual (not on behalf of an organisation)
☐ on behalf of a group or organisation(s)

Your submission may be requested under the Official Information Act 1982. If this happens, the Ministry of Health will release your submission to the person who requested it. However, if you are an individual as opposed to an organisation, the Ministry will remove your personal details from the submission if you check the 'no' box:

☐ No, I do not give permission for my personal details to be released under the Official Information Act 1982
☐ Yes, I do give permission for my personal details to be released under the Official Information Act 1982

Yes I give permission

The public report on the consultation will seek to avoid prejudice to the commercial position of respondents who provide commercially sensitive information. Submitters are therefore asked to clearly indicate any information they wish to have treated as confidential commercially sensitive information.
General consultation questions

1. Overall, do you support or oppose the proposal to introduce plain packaging of tobacco products in New Zealand, as outlined in this consultation document?
   - Support
   - Oppose
   - Not sure
   Comment:
   Support - There is evidence that shows that standardised plain packaging will be effective as it is one of the key marketing tools employed by the tobacco industry to attract customers to buy their products. In addition to other tobacco control measures I think this will be a great step to preventing our next generation of children from being misled into buying harmful products because of the negative advertising.

2. Do you agree that plain packaging of tobacco products has the potential to:
   - reduce the appeal of tobacco products?
   - increase the effectiveness of health warnings on tobacco packaging?
   - reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking?
   - influence the attitudes and behaviours of children and young people?
   - Yes
   - No
   - Not sure
   Comment:
Yes - Due to high smoking rates with youth and adults on the West Coast I believe that plain packaging will reduce the appeal of tobacco to young children as the health warnings will take up most of the packaging and they won’t be over powered by brand colours and imagery. With the health warnings being the main focus young children are going to find the images alarming and not very nice to look at nor will they find smoking appealing as the packaging is very basic and full of health risk images and information. This will stop them from thinking smoking may be cool or a good thing to do. This should be seen as a priority as this is going to reduce the appeal of tobacco to children.

If you do not agree that plain packaging should be introduced, are there other options you think should be adopted to address the issues above?

Comment:

3. Do you agree that plain packaging of tobacco products would help to:
   - discourage young people from taking up smoking?
   - encourage people to give up smoking?
   - help stop people who have quit smoking from relapse?
   - contribute to a reduction in smoking prevalence in New Zealand and reduce people’s exposure to second-hand smoke?

☐ Yes
☐ No
☐ Not sure

Comment:
Yes.
I believe that plain packaging will discourage people, young children in particular from taking up smoking and is therefore likely to contribute to a reduction in smoking. I think plain packaging with health warnings will start important conversations in families and lead to more quit attempts leading to more people and homes becoming smokefree. It will also reduce the amount of second hand smoke to children in homes and cars as they will not want their parents to smoke after seeing the disturbing pictures on packets they may see left around the house along with other smokefree messages they see around.

If you do not agree that plain packaging should be introduced, what other options do you think should be adopted to reduce smoking and the harm it causes?

Comment:

4. If New Zealand does go ahead with plain packaging, is there any reason why a significantly different scheme might be necessary or desirable for New Zealand, compared to the scheme that has been introduced in Australia?

○ Yes
○ No
○ Not sure

Comment:
No. I think it seems reasonable that we adopt the same scheme as Australia given the Trans Tasman Mutual Recognition between New Zealand and Australia; it also seems to be working well over there.

5. If adopted, do you think plain packaging of tobacco products might have any unintended or undesirable consequences, such as:
• unacceptable implications for consumers (e.g., limitations on consumer choice)?
• legal implications (e.g., implications for freedom of expression under the Bill of Rights Act)?
• adverse implications for competition or trade?
• unduly adverse impacts on tobacco manufacturers and exporters in developing countries?

○ Yes
○ No
○ Not sure

Comment:

Not sure - The tobacco industry are putting forward the argument that their brand has been taken away from them, even though all cigarette packaging will be plain so no brand will be disadvantaged or advantaged over another. Also I think that them trying to say that they have all these rights to do things is wrong, considering I think the main thing that they should be taking responsibility for and taking ownership is the fact that their product is killing and causing serious harm to our people. They should not have any rights as this is what they are making money from.

6. Are you concerned that a plain-packaging regime might lead to an increase in illicit tobacco trade and related 'black market' or criminal activity? If so, can you provide any evidence to support your concern? For example:

• what difference would plain packaging make to the incentives or opportunity for the supply of counterfeit or contraband (i.e., smuggled or non-duty paid) cigarettes?
• do you have any views as to the adequacy of measures contained in the Australian plain-packaging regime to avoid illicit trade?
• do you have any views as to the role the tobacco supply industry itself should play in preventing illicit tobacco trade?

○ Yes
○ No
○ Not sure

Comment:
No. The main driver for illicit trade is the high price of tobacco, and plain packaging doesn’t have anything to do with the price. There’s no reason to think that plain packs will be easier to counterfeit than the branded packs.

7. Do you have any comments to make on any aspect of the Regulatory Impact Statement that forms part of this consultation?
Comment:
It had a lot of good information and was very helpful.

8. Do you have any other comments on plain packaging of tobacco products that you would like to be taken into account?
Comment:
Specific questions relating to impacts on manufacturers, exporters, importers and retailers of tobacco products

9. What are the likely impacts that plain packaging would have for manufacturers, exporters, importers or retailers of tobacco products?
Comment:

10. What would be the impact of plain packaging on the market mix and retail price of tobacco products?
Comment:
11. What would be the additional costs of manufacturing tobacco packaging, including redesigning packs and retooling printing processes, if plain packaging of tobacco products were introduced?

Comment:

12. Would the ongoing cost of manufacturing cigarette packs be lower or higher if plain packaging of tobacco products were introduced compared with the current cost of manufacturing packs, and by how much?

Comment:

13. How often do manufacturers amend the design of tobacco packaging for brands on the New Zealand market, and what are the costs of doing so?

Comment:

Submission on Proposal to Introduce Plain Packaging of Tobacco Products in New Zealand
14. Would the ongoing costs of brand marketing increase or decrease over time under plain packaging?

Comment:

15. To what extent is the design, manufacture and printing of packaging of tobacco products sold in New Zealand undertaken in New Zealand, including work outsourced to external specialist design, packaging and printing firms?

Comment:

16. Would plain packaging of tobacco products result in a discontinuation of importation of tobacco products with small markets, and if so, what financial loss would be incurred by importers of those products?

Comment:
17. Would it take longer for tobacco retailers to serve customers, and if so, why and by how much would this occur?
Comment:

18. Would retailers face any other costs or benefits if plain packaging of tobacco products were introduced?
Comment:

19. Please outline any other costs or benefits for manufacturers, exporters, importers or retailers that you think need to be taken into account when the Government considers whether to introduce a plain packaging of tobacco products regime.
Comment:
20. Please outline any ways in which plain packaging might be introduced so as to minimise the costs and/or maximise the benefits of doing so.

Comment:
Submission on Proposal to Introduce Plain Packaging of Tobacco Products in New Zealand

This submission was completed by:

(name) Smokefree Mid Canterbury

Address: (street/box number) 1
(town/city) Ashburton

Email: 1

Organisation (if applicable):

Position (if applicable):

Are you submitting this as:

✓ on behalf of a group or organisation(s)

Smokefree Mid Canterbury consists of a group of organisations who work to promote Smokefree lifestyles in the Mid Canterbury region. The purpose of the group is to give a united voice to Smokefree issues across the region. Smokefree Mid Canterbury support fully the Governments goal of achieving a Smokefree Aotearoa by 2025.

We do not have any links with the tobacco industry.

I do not give permission for my personal details to be released under the Official Information Act 1982.
General consultation questions

1. Overall, do you support or oppose the proposal to introduce plain packaging of tobacco products in New Zealand, as outlined in this consultation document?

- Support

Comment:

Smokefree Mid Canterbury fully endorses the introduction of plain packaging of tobacco products. We believe plain packaging is justifiable and proportionate on public health grounds. We view this as a further step in protecting children from tobacco marketing and a move that will bring us one step closer to a Smokefree Aotearoa.

2. Do you agree that plain packaging of tobacco products has the potential to:
   - reduce the appeal of tobacco products?
   - increase the effectiveness of health warnings on tobacco packaging?
   - reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking?
   - influence the attitudes and behaviours of children and young people?

- Yes

Comment:

Yes we do believe the evidence suggests that all four of these policy objectives will be achieved through introduction of plain packaging. It is encouraging to see that the consultation document does summarise some of the key research evidence that provides support for the move to introduce plain packaging – we have therefore chosen not to reiterate these key findings from the literature.
If you do not agree that plain packaging should be introduced, are there other options you think should be adopted to address the issues above?

Comment:

Please see our comment under the second part of question 3.

3. Do you agree that plain packaging of tobacco products would help to;
   - discourage young people from taking up smoking?
   - encourage people to give up smoking?
   - help stop people who have quit smoking from relapse?
   - contribute to a reduction in smoking prevalence in New Zealand and reduce people's exposure to second-hand smoke?

   C Yes

Comment:

Yes we agree with the above statements.

If you do not agree that plain packaging should be introduced, what other options do you think should be adopted to reduce smoking and the harm it causes?

Comment:

We recognise that there are a variety of different ways that the four objectives listed above could be achieved. We refer readers to the recommendations made by the Maori Affairs Select Committee in Nov 2010 in their report into the tobacco industry and the consequences of tobacco use for Maori and the various documents and roadmaps to achieving Smokefree 2025 found at http://smokefree.org.nz/smokefree-2025

These documents set out other options that will be required if we are to reduce the harm caused by tobacco.

However, introduction of plain packs should not be delayed on the basis that there other ways to achieve these objectives. Evidence is clear that successful tobacco control initiatives are ones that are comprehensive and cover many facets. Smokefree Mid Canterbury considers that introduction of plain packaging is an important step along the pathway to achieving a Smokefree Aotearoa.

It is interesting that the tobacco industry is claiming so vehemently that there isn't the evidence this move will work. Surely if they don't believe the move will have an impact on smoking rates there should be no reason for them to be spending so much time and resource on trying to stop it.
4. If New Zealand does go ahead with plain packaging, is there any reason why a significantly different scheme might be necessary or desirable for New Zealand, compared to the scheme that has been introduced in Australia?

Comment:
No – a similar scheme to Australia may be desirable, especially as a bulk of tobacco in the New Zealand market is manufactured in Australia. In addition, the NZ Smokefree Environments Act requires the warnings to align with Australia. However, it may be appropriate to ensure culturally appropriate health warnings specific for New Zealand are allowed. E.g. use of te reo or other languages/images as appropriate.

5. If adopted, do you think plain packaging of tobacco products might have any unintended or undesirable consequences, such as:
- unacceptable implications for consumers (e.g., limitations on consumer choice)?
- legal implications (e.g., implications for freedom of expression under the Bill of Rights Act)?
- adverse implications for competition or trade?
- unduly adverse impacts on tobacco manufacturers and exporters in developing countries?

Comment:
It is possible that if the plain packaging law should reduce demand for the expensive brands and the average price as measured by the consumer price index should fall, then government may have to increase excise to restore the retail price to the previous level.

Smokefree Mid Canterbury wants to stress the importance that both the Ministry of Health and Government eliminate any possible loopholes that the tobacco industry might exploit to circumvent the intention of plain package legislation. Please refer to our response under question 8.

6. Are you concerned that a plain-packaging regime might lead to an increase in illicit tobacco trade and related ‘black market’ or criminal activity? If so, can you provide any evidence to support your concern? For example:
- what difference would plain packaging make to the incentives or opportunity for the supply of counterfeit or contraband (i.e., smuggled or non-duty paid) cigarettes?
- do you have any views as to the adequacy of measures contained in the Australian plain-packaging regime to avoid illicit trade?
- do you have any views as to the role the tobacco supply industry itself should play in preventing illicit tobacco trade?
Comment:

We believe that arguments from the tobacco industry about potential increases to illicit trade and criminal activity are over-inflated. We agree with the following comment in the regulatory impact statement. *(There is also a possibility of increased counterfeiting and black market sales of tobacco. However, this is considered unlikely, and identification codes and anti-counterfeiting markings would be allowed on packaging (as in Australia), which would negate these issues.)*

We do not believe that the proposed plain packs will be any harder to counterfeit than the current packages.

It is important that the Government be able to ensure full tax recovery, so introduction of measures to inhibit any possible illicit trade could be considered. There are options available to the tobacco supply industry to help prevent illicit trade. In many countries labels or stickers are used to indicate tobacco content or whether tax has been paid. Customs could be consulted as to the details necessary for implementing a similar system in New Zealand. If such a system were introduced we would encourage the labels to include full disclosure of all ingredients including nicotine levels.

Another way to help ensure the Government does receive full tax recovery would be to abolish the current duty free allowances. Currently, approximately 7% of tobacco consumed in New Zealand is purchased duty-free. This means the government is losing 7% of its tax revenue from tobacco, or up to 70 million dollars. Smokefree Canterbury supports the abolishment of tobacco duty free allowances for the following reasons:

- Many smokers will have little incentive to quit
- Non-smokers may be tempted to purchase and supply cheap tobacco to friends and family
- Travellers will continue to be encouraged to buy cigarettes in larger quantities than usual
- The government will continue to lose significant potential revenue
- The taxpayer will continue to front the bill for the ongoing costs incurred from smoking.

Lougheese, M. Quitting less likely for 40,000 smokers of duty-free half-price tobacco – reducing the duty-free allowance for in-bound passengers (unpublished data) 2012


7. Do you have any comments to make on any aspect of the Regulatory Impact Statement that forms part of this consultation?

Comment:
We do not support alternative option 1 and 2 from the regulatory impact statement of either increasing the health warnings or maintaining the status quo but building on current tobacco control initiatives incrementally with measures other than plain packaging. Advertising and promotion for tobacco products was outlawed under the Smoke-free Environments Act 1990 - introduction of plain packaging will remove this last advertising avenue. Even with display bans tobacco products are carried everywhere with the smoker and therefore have the potential to advertise the product to a wide range of people.

We are concerned with areas of the regulatory impact statement that relate to potential costs to the tobacco industry as we do not believe these have been balanced with information on costs of tobacco to society. We do not believe that the profits of the tobacco industry (and particularly the potential decline in profits) should have any bearing on a decision to introduce plain packaging. It should be remembered that the tobacco industry profits from the addiction, disease and death of our communities.

According to their Annual Financial Statements on the Companies Office website for the financial year for 2011, the three leading tobacco cigarette companies which accounted for 98% of sales, made operating profits totalling $175.48 million.

8. Do you have any other comments on plain packaging of tobacco products that you would like to be taken into account?

Comment:
Eliminating avenues that could be exploited to circumvent the intention of plain packaging:

Previous actions by the tobacco industry would suggest they are likely to investigate alternatives and loopholes or avenues within the law that would work to counteract the intention of plain packaging. Previous examples where this has happened include:

- Increasing prominence of retail display units following introduction of legislation to ban tobacco advertising in New Zealand. Once tobacco advertising was prohibited it resulted in far greater prominence being given to point of purchase display units, some of which were modified to ensure greatest visibility within a retail outlet. Another common response was to increase brand lines to ensure slight variation to products that would enable a much greater volume to be on display of any one brand whilst still meeting regulations of only two packets of one particular product being allowed on display for any one cash register.

- Display ban legislation. Our local smokefree enforcement officer reports that all retail outlets who stock Imperial tobacco have been provided with posters (similar to below) by the Imperial tobacco to display in their shops.

Whilst these posters do meet regulations as set out in Part 2A, 26A(5) of the Smoke-free Environments Amendment Regulations 2012 we would argue that having this as the only health warning throughout retail outlets circumvents the intention on the display ban legislation.

It is therefore important that any regulations around plain packaging should include all conceivable ways that cigarettes may be sold in a way that allows products to be differentiated and therefore hold brand characteristics—including shape, colour, texture, size font, cigarettes, internal packaging etc.
Question 8 continued:

Costs to tobacco related industry versus cost of tobacco on society:

We note that the consultation document stated

"In considering the regulatory impact of plain packaging on the tobacco industry and related businesses, the Government will take into account the views and interests of the full range of stakeholders. This includes the wider public, both smokers and non-smokers, and also those exposed to 'second-hand' smoke. Other stakeholders include public health proponents, non-governmental organisations, academics and researchers."

Questions 9 – 20 provide ample opportunity for those associated with the tobacco industry to detail any thoughts they have relating to likely cost of plain packaging. However we note that there is little mention of the cost of tobacco to society in the consultation document and no questions that specifically deal with this issue in the consultation questions. We trust that this will not result in any bias in the outcome and that any potential costs to the tobacco industry are considered in relation to the range of costs related to tobacco addiction, disease and death and their resultant impacts on society.
Specific questions relating to impacts on manufacturers, exporters, importers and retailers of tobacco products

9. What are the likely impacts that plain packaging would have for manufacturers, exporters, importers or retailers of tobacco products?
Comment:
No comment

10. What would be the impact of plain packaging on the market mix and retail price of tobacco products?
Comment:
No comment

11. What would be the additional costs of manufacturing tobacco packaging, including redesigning packs and retooling printing processes, if plain packaging of tobacco products were introduced?
Comment:
We note and agree with the comments in the regulatory impact statement:
"The compliance costs of moving to plain packaging would fall mainly on the tobacco industry, and are thought to be relatively minor – similar in magnitude to the cost of implementing mandatory pictorial health warnings in 2008. There will be offsetting savings over time as the industry will no longer need to invest resources in innovating and refreshing its brand marketing devices and imagery on tobacco products and packs. The proposed consultation process should provide further information on the magnitude of these costs, but they (costs) are expected to be minor in comparison to the potential benefits (in terms of avoided health costs and quality of years gained) if even a small number of smokers are prompted to quit or prevented from taking up smoking in the first place."

12. Would the ongoing cost of manufacturing cigarette packs be lower or higher if plain packaging of tobacco products were introduced compared with the current cost of manufacturing packs, and by how much?
Comment:
13. How often do manufacturers amend the design of tobacco packaging for brands on the New Zealand market, and what are the costs of doing so?
Comment:
No comment

14. Would the ongoing costs of brand marketing increase or decrease over time under plain packaging?
Comment:
No comment

15. To what extent is the design, manufacture and printing of packaging of tobacco products sold in New Zealand undertaken in New Zealand, including work outsourced to external specialist design, packaging and printing firms?
Comment:
No comment

16. Would plain packaging of tobacco products result in a discontinuation of importation of tobacco products with small markets, and if so, what financial loss would be incurred by importers of those products?
Comment:
No comment

17. Would it take longer for tobacco retailers to serve customers, and if so, why and by how much would this occur?
Comment:
No comment
18. Would retailers face any other costs or benefits if plain packaging of tobacco products were introduced?
Comment:
No comment

19. Please outline any other costs or benefits for manufacturers, exporters, importers or retailers that you think need to be taken into account when the Government considers whether to introduce a plain packaging of tobacco products regime.
Comment:
No comment

20. Please outline any ways in which plain packaging might be introduced so as to minimise the costs and/or maximise the benefits of doing so.
Comment:
No comment

Other comments
RELEASED UNDER THE OFFICIAL INFORMATION ACT
Body Section

To:
tobacco@moh.govt.nz

I SUPPORT plain packaging

Thank you for the opportunity to share my opinion about the Government's plain packaging proposal.

The Government has already increased tobacco taxes and removed cigarettes from shop display. And now, it's RIGHTLY considering plain packaging! This passes the Tobacco Industry SCREAM test – it will work so it makes them scream and grovel. The Government already covers cigarette packs in graphic health warnings. Plain packaging WILL 100% make people stop smoking or MORE IMPORTANTLY will stop youth taking it up.

I support the NZ Government interest in protecting public health. This initiative will spread and domino worldwide.

Please consider my views and target the Tobacco Industry with this proven antipodesan policy.

DETAILS

First Name James

*

Last Name Middleton

*

Email chair@cleartheair.org.hk
Submission on Proposal to Introduce Plain Packaging of Tobacco Products in New Zealand

This form has been provided to assist submitters respond to the specific consultation questions set out in the consultation document. It is not intended to limit or constrain submissions in any way. Submitters may prefer to raise other issues or address the questions in other ways. All written submissions in any form received by the closing date will be considered in full.

Submissions close on Friday 5 October 2012 at 5 pm.

Please email your submission to:
  tobacco@moh.govt.nz
and put 'Plain packaging consultation' in the subject line.

Alternatively you may post your submission to:
  Plain Packaging Consultation
  Tobacco Control Programme
  Ministry of Health
  PO Box 5013
  Wellington 6145

Submitter details

You do not have to answer all the questions or provide personal information if you do not want to but you are asked to declare any direct or indirect links to the tobacco industry.

Do you have any direct or indirect links to the tobacco industry?

Yes

☐ No

If yes, please comment on the nature of these links.
This submission was completed by: Becky Jenkins
(name) Public Health Unit
Taranaki District Health Board

Address: (street/box number) Private Bag 2016
(town/city) New Plymouth

Email: Becky.Jenkins@tdhb.org.nz

Organisation (if applicable): Taranaki District Health Board

Position (if applicable): Service Manager, Population Health Manager

Are you submitting this as:
(Tick one box only in this section)

☒ an individual (not on behalf of an organisation)
☒ on behalf of a group or organisation(s)

Your submission may be requested under the Official Information Act 1982. If this happens, the Ministry of Health will release your submission to the person who requested it. However, if you are an individual as opposed to an organisation, the Ministry will remove your personal details from the submission if you check the 'no' box:

☐ No, I do not give permission for my personal details to be released under the Official Information Act 1982

☒ Yes, I do give permission for my personal details to be released under the Official Information Act 1982.

The public report on the consultation will seek to avoid prejudice to the commercial position of respondents who provide commercially sensitive information. Submitters are therefore asked to clearly indicate any information they wish to have treated as confidential commercially sensitive information.
General consultation questions

1. Overall, do you support or oppose the proposal to introduce plain packaging of tobacco products in New Zealand, as outlined in this consultation document?
   ☑ Support
   ☐ Oppose
   ☐ Not sure
   Comment:
   
   We strongly support the introduction of plain packaging of tobacco products in New Zealand.

2. Do you agree that plain packaging of tobacco products has the potential to:
   • reduce the appeal of tobacco products?
   • increase the effectiveness of health warnings on tobacco packaging?
   • reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking?
   • influence the attitudes and behaviours of children and young people?
   ☑ Yes
   ☐ No
   ☐ Not sure
   Comment:
We consider that plain packaging will support all the above objectives. The New Zealand Tobacco Use Survey (2008) found that 46 percent of Māori were current smokers compared to 21 percent of non-Māori. Māori in all ages groups had higher smoking rates than non-Māori. Any steps the Government can take to support Māori to stay or become Auahi Kore are vital and should be taken.

It's important to acknowledge that Māori culture and Māori communities have strong traditions of using visual imagery. By introducing plain packaging we consider the visual appeal of tobacco products to Māori will be decreased and will support reducing Māori uptake of smoking and support Māori attempts to quit.

If you do not agree that plain packaging should be introduced, are there other options you think should be adopted to address the issues above?

Comment:

3. Do you agree that plain packaging of tobacco products would help to:
   - discourage young people from taking up smoking?
   - encourage people to give up smoking?
   - help stop people who have quit smoking from relapse?
   - contribute to a reduction in smoking prevalence in New Zealand and reduce people's exposure to second-hand smoke?

[ ] Yes
[ ] No
[ ] Not sure

Comment:
If you do not agree that plain packaging should be introduced, what other options do you think should be adopted to reduce smoking and the harm it causes?

Comment:

4. If New Zealand does go ahead with plain packaging, is there any reason why a significantly different scheme might be necessary or desirable for New Zealand, compared to the scheme that has been introduced in Australia?

☐ Yes
☐ No
☐ Not sure

Comment:

We believe it is desirable for New Zealand to develop the same plain packaging scheme that has been introduced in Australia. To encourage consistent public health initiatives to reduce the prevalence of tobacco consumption on both sides of the Tasman Sea.

5. If adopted, do you think plain packaging of tobacco products might have any unintended or undesirable consequences, such as:

• unacceptable implications for consumers (eg, limitations on consumer choice)?

• legal implications (eg, implications for freedom of expression under the Bill of Rights Act)?
• adverse implications for competition or trade?
• unduly adverse impacts on tobacco manufacturers and exporters in developing countries?

☐ Yes
☐ No
☐ Not sure

Comment:
We disagree that tobacco companies have a right, given the negative impact on public health, to market their products. As smoking kills 5000 New Zealanders each year, cigarettes should not be sold like any other consumer product. We consider it is a dangerous drug and should be treated as such.

6. Are you concerned that a plain-packaging regime might lead to an increase in illicit tobacco trade and related 'black market' or criminal activity? If so, can you provide any evidence to support your concern? For example:

   • what difference would plain packaging make to the incentives or opportunity for the supply of counterfeit or contraband (ie, smuggled or non-duty paid) cigarettes?

   • do you have any views as to the adequacy of measures contained in the Australian plain-packaging regime to avoid illicit trade?

   • do you have any views as to the role the tobacco supply industry itself should play in preventing illicit tobacco trade?

☐ Yes
☐ No
☐ Not sure

Comment:
We don’t believe that plain packaging will increase related criminal activity. We consider border controls will be just as effective in keeping counterfeit or contraband cigarettes out of the market whether they are in plain packets or not.
7. Do you have any comments to make on any aspect of the Regulatory Impact Statement that forms part of this consultation?

Comment:

We agree that Option 3: Regulatory change to require plain packaging of tobacco products would be the only option effective at meeting the specific policy objective of the proposal:
- to further reduce the ability of the tobacco industry to market tobacco products and to prevent tobacco promotion and advertising from occurring on tobacco products and tobacco product packaging.

As a result we consider there would likely be reduced uptake of smoking, increased cessation, and flow-on effects for the reduction of second-hand smoking, improved public health, and reduced costs to the public health system. This would reduce premature death and contribute to the Government’s stated goal of a smoke-free New Zealand by 2025.

8. Do you have any other comments on plain packaging of tobacco products that you would like to be taken into account?

Comment:

Research outlined in the Ministry of Health’s ‘Proposal to introduce plain packaging of tobacco products in New Zealand’ consultation document July 2012, has shown that the primary role of tobacco packaging is to promote brand appeal. In particular, to promote brand appeal to youth and young people. If the tobacco industry is able to continue to market its products to appeal to young people then that will not support New Zealand being smokefree as it will mean there will always be a younger generation of smokers.
Specific questions relating to impacts on manufacturers, exporters, importers and retailers of tobacco products

9. What are the likely impacts that plain packaging would have for manufacturers, exporters, importers or retailers of tobacco products?

Comment:

We consider any minor compliance costs for the manufacturers initially will be offset by savings over time as the tobacco industry will no longer need to invest resources in innovating and refreshing its brand marketing devices and imagery on tobacco products and packs.

Any costs to the industry are minor compared to the potential benefits in reducing the costly harms caused by smoking.

10. What would be the impact of plain packaging on the market mix and retail price of tobacco products?

Comment:
11. What would be the additional costs of manufacturing tobacco packaging, including redesigning packs and retooling printing processes, if plain packaging of tobacco products were introduced?

Comment:


12. Would the ongoing cost of manufacturing cigarette packs be lower or higher if plain packaging of tobacco products were introduced compared with the current cost of manufacturing packs, and by how much?

Comment:


13. How often do manufacturers amend the design of tobacco packaging for brands on the New Zealand market, and what are the costs of doing so?

Comment:
14. Would the ongoing costs of brand marketing increase or decrease over time under plain packaging?
Comment:

15. To what extent is the design, manufacture and printing of packaging of tobacco products sold in New Zealand undertaken in New Zealand, including work outsourced to external specialist design, packaging and printing firms?
Comment:

16. Would plain packaging of tobacco products result in a discontinuation of importation of tobacco products with small markets, and if so, what financial loss would be incurred by importers of those products?
Comment:

Submission on Proposal to Introduce Plain Packaging of Tobacco Products in New Zealand
17. Would it take longer for tobacco retailers to serve customers, and if so, why and by how much would this occur?

Comment:

18. Would retailers face any other costs or benefits if plain packaging of tobacco products were introduced?

Comment:

19. Please outline any other costs or benefits for manufacturers, exporters, importers or retailers that you think need to be taken into account when the Government considers whether to introduce a plain packaging of tobacco products regime.

Comment:

We consider the costs are minor in comparison to the potential benefits in terms of avoided health costs and quality life years gained.
20. Please outline any ways in which plain packaging might be introduced so as to minimise the costs and/or maximise the benefits of doing so.

Comment:

At present tobacco packaging has become the tobacco industry's key marketing tool to attract and retain customers. Regulatory change on plain packaging supports the achievement of Smokefree Aotearoa by 2025.

It makes sense for New Zealand to introduce this legislation as soon as possible after Australia's plain packaging legislation is passed.
Submission to Ministry of Health on
Proposal to introduce plain packaging of tobacco products in New Zealand

To: Plain Pack Consultation
  (tobacco@moh.govt.nz)
  Tobacco Control Programme
  Ministry of Health
  PO Box 5013
  Wellington

Submitter details
You do not have to answer all the questions or provide personal information if you do not want to but you are asked to declare any direct or indirect links to the tobacco industry.

Do you have any direct or indirect links to the tobacco industry?

|   | Yes | X No |

If Yes, please comment on the nature of these links.

This submission was completed by:

(Name) ____________________________
Address: (street/box number) ________
           (town/city) _____________
Email: ____________________________
Organisation (if applicable): Compass Health Wairarapa office
Position (If applicable): ____________

Are you submitting this as *(Tick one box only in this section)*:

<table>
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<tr>
<th></th>
<th>an individual (not on behalf of an organisation)</th>
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<tr>
<td>X</td>
<td>on behalf of a group or organisation(s)</td>
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</table>
Your submission may be requested under the Official Information Act 1982. If this happens, the Ministry of Health will release your submission to the person who requested it. However, if you are an individual as opposed to an organisation, the Ministry will remove your personal details from the submission if you check the following box:

I do not give permission for my personal details to be released under the Official Information Act 1982.

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General consultation questions

1. Overall, do you support or oppose the proposal to introduce plain packaging of tobacco products in New Zealand, as outlined in this consultation document? 

Support X

Comment: Compass Health Wairarapa is particularly supportive of the “denormalising” of tobacco products that plain packaging will achieve by virtually eliminating their brand marketing to children.

We fully support the proposal to introduce plain packaging of tobacco products in alignment with Australia ¹. We also urge the Government to use this opportunity to enhance the size of graphic health warnings and to conduct ongoing review of existing health warnings with a view to implementing the most effective for New Zealand.

The implementation of plain tobacco packaging is an effective measure towards achieving the government's vision of Smokefree 2025 ². Based on the evidence that plain packaging reduces the appeal of tobacco ³ ⁴, a growing number of countries are currently considering plain tobacco packaging such as the United Kingdom, France and India.

The tobacco industry places significant marketing value on tobacco packaging as it forms a unique channel to convey brand identity or brand personality to their customers ⁵ ⁶. As noted by a former cigarette designer, “A cigarette package is unique because the consumer carries it around with him all day...It's a part of a smoker's clothing, and when he saunters into a bar and plucks it down, he makes a statement about himself.”

New Zealand is a ratified party to the International treaty of the World Health Organization, Framework Convention on Tobacco Control (abbreviated as FCTC hereafter) ⁸. This treaty supports the plain packaging of tobacco products.

2. Do you agree that plain packaging of tobacco products has the potential to:

- reduce the appeal of tobacco products?
- increase the effectiveness of health warnings on tobacco packaging?
- reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking?
- influence the attitudes and behaviours of children and young people?

Yes X
Comment

A growing body of research studies demonstrate the effects of plain packaging in reducing the appeal to tobacco. The guidelines of the FCTC recognize that plain packaging is effective in preventing smoking uptake and relapse as it serves three functions:

- it reduces the appeal of tobacco products;
- it increases the effectiveness of health warnings on tobacco packaging;
- it reduces the ability of tobacco packaging to mislead consumers about the harmful effects of smoking.

Such propositions were attested by the systematic review of 37 studies conducted by the Public Health Research Consortium. New Zealand studies also suggested such propositions.

The review summarised strong evidence to support plain packaging. The review also suggested that plain packaging will influence the attitudes and behaviors of children and young people.

Plain packaging will remove all the elements that frame consumers’ perception of a tobacco brand.

The tobacco industry is also very clear on the value of packaging in influencing smokers and potential smokers. The 1963 US Liggett & Myers report states, “The primary job of the package is to create a desire to purchase and try. To do this, it must look new and different enough to attract the attention of the consumer.” The tobacco industry has worked for many years to create strong brand identities and associations. The use of colors, images and descriptors have been used in conjunction with brands to build strong consumer perceptions of the taste and risks of tobacco products. For example, the Horizon brand in New Zealand is associated with young urban women.

More evidences will be provided in Question 3.

3. Do you agree that plain packaging of tobacco products would help to:
   - discourage young people from taking up smoking?
   - encourage people to give up smoking?
   - help stop people who have quit smoking from relapse?
   - contribute to a reduction in smoking prevalence in New Zealand and reduce people’s exposure to second-hand smoke?

Yes X

Comment

Plain packaging of tobacco products is an effective way to discourage young people from taking up smoking and to reduce smoking prevalence in New Zealand for the following reasons.

The average age of smoking initiation in New Zealand youth is 14.6 years. Young people are very responsive to tobacco branding and brand imagery as it defines their identities. Brand imagery facilitates smoking experimentation among young people. A New Zealand study showed that both young adults smokers and non-smokers could easily attribute different imagers and designs on different packages to a particular characteristics such as ‘young’, ‘cool’ or ‘male’ or ‘female’.

3
Plain packaging is perceived as less appealing especially among young people and non-smokers.\textsuperscript{3}

When asked about their perception of tobacco in plain packaging vs. branded packages, plain packaging was thought to be less attractive, poorer quality and poorer tasting, less smooth and cheaper.\textsuperscript{3, 19} Plain packaging also weakened the brand association between smokers and the products and created a less desirable smoking identity. Smokers perceived plain packaging as less trendy, less sociable and less mature than the branded packs.\textsuperscript{3, 19}

A focus-group study of Year 10 students in New Zealand found participants unanimously perceived plain cigarette packs as a ‘strong and radical’ step towards making smoking ‘look budget’\textsuperscript{14}. Participants regarded plain pack as ‘clear, direct and straight-to-the-point’.\textsuperscript{14}

Another New Zealand study\textsuperscript{11} interviewed 292 young adult smokers (age group 18-30) on their response to cigarette packet designs varying from plain packs with no graphic warnings to large logos or pictures. The study found that removing brand elements and increasing in graphic health warning size significantly reduced the attractiveness of a cigarette packet.\textsuperscript{11} It also suggested that branding elements partially undermined the effect of graphic warnings.\textsuperscript{11}

Plain packaging increases the saliency of health warnings.

Plain packaging will increase the saliency of health warnings as well as the perceived seriousness and believability.\textsuperscript{3, 11} Such effects are moderated by the type, size and position of health warning used.\textsuperscript{3}

The New Zealand study also found that participants preferred a complete plain pack to a plain pack with graphic warning that covered at least 50 per cent of the packet.\textsuperscript{11} More participants indicated they would engage in quitting-related behaviour after viewing the plain pack with large graphic warning.

Plain packets with a large graphic warning were likely to trigger more quit attempts.

These results are consistent with previous studies including a Canadian study that surveyed teens that smoke or were likely to smoke.\textsuperscript{20} Teens exposed to plain packaging had a higher recall of health warnings than those exposed to regular packaging.\textsuperscript{20}

We expect that more evidence on the effectiveness of plain packaging after the world’s first tobacco plain packaging law will come into effect in Australia on 1 December 2012.

Smoking-related attitudes, beliefs, intentions and behaviour

Plain packaging is associated with more negative feelings about smoking. Young adult smokers feel plain packaging would lower feelings of enjoyment and satisfaction and increase feelings of embarrassment and shame.\textsuperscript{3}

Young adult smokers and non-smokers interviewed in a qualitative study in New Zealand agreed that plain packaging took away the personal elements that connect tobacco products with consumers.\textsuperscript{21}

Other studies also showed plain packaging would reduce smoking uptake, especially among young people and increase intentions to quit among smokers.\textsuperscript{3}
4. If New Zealand does go ahead with plain packaging, is there any reason why a significantly different scheme might be necessary or desirable for New Zealand, compared to the scheme that has been introduced in Australia?

No X

Comment

It is suggested New Zealand to introduce the same requirements for plain packaging of all tobacco products as in Australia.

Rigorous market research was conducted on the development and testing of plain packaging with the aim to identify the best design (colour, font type, font size) to minimise the appeal and attractiveness of tobacco packaging while maximising the harm and effects of graphics health warnings. The requirement set in the Australia law is deemed as the most effective to meet the policy objective of reducing tobacco consumption. We thus recommend New Zealand to follow the Australian model to have plain packaging for all tobacco products, both inside and outside of a tobacco packet.

In addition, we recommend the New Zealand government to consider the best model for the tobacco products to minimise the appeal (e.g., colours and length of cigarette sticks and cigars, etc).

5. If adopted, do you think plain packaging of tobacco products might have any unintended or undesirable consequences, such as:
   - unacceptable implications for consumers (e.g., limitations on consumer choice)?
   - legal implications (e.g., implications for freedom of expression under the Bill of Rights Act)?
   - adverse implications for competition or trade?
   - unduly adverse impacts on tobacco manufacturers and exporters in developing countries?

No X

Comment: There will be implications for tobacco manufacturers and exporters as there was in Motueka New Zealand in the late 1980’s and early 1990’s when the two tobacco packing plants closed. However this is a short term situation that must occur for maximum long term gain for the health of New Zealanders.

Unacceptable implications for consumers (e.g., limitations on consumer choice)

Consumers will still have the choice to choose from different brands that are listed on the price list.

The consumer information for the public on tobacco products should only be the consequences of tobacco use. Tobacco products kill half of its consumers if used exactly as intended by the manufacturer. In New Zealand, four thousand five hundred deaths are attributed to tobacco use. Tobacco use is a major factor of health inequalities as a higher proportion of people with low social economic status smoke, as well as higher proportions of Māori, and Pacific people and those with mental health problems.

Smoking is not a legitimate choice given that nicotine in tobacco products are highly addictive and have taken away a smoker’s right to choose a smokefree lifestyle. The average age of
smoking initiation in New Zealand youth is 14.6 years.\(^{18}\) Four out of five adult smokers in New Zealand said they would not smoke if they had their life over again.\(^ {29}\)

The best brand element to convey such message is plain packaging with prominent displays of graphic health warnings. There should also be ongoing renewal of the graphic health warnings.

**Legal implications (eg, implications for freedom of expression under the Bill of Rights Act)**

We regard the proposal to plain tobacco packaging should be weighed over to ‘freedom of expression’ for the following reasons:

Sufficient evidence shows that plain tobacco packaging could reduce the appeal of tobacco products and smoking, especially among young people.\(^ {34}\) It will enhance the effectiveness of health warnings on tobacco packaging; reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking and ultimately influence the attitudes and behaviours of children and young people.\(^ {3\text{d}}\) Plain tobacco packaging is a justifiable measure to achieve the objective of reducing smoking prevalence.

On the report of the impact of tobacco display ban on freedom of expression, the Attorney-General quoted the decision made by the Supreme Court of Canada as follows.\(^ {30}\)

> “when commercial expression is used for the purpose of inducing people to engage in harmful and addictive behaviour, its value becomes tenuous.”

We recommend the government to consider the Attorney-General’s comment and give priority to public health.

**Adverse implications for competition or trade**

New Zealand will be a world leader by achieving a smokefree nation by 2025 and plain packaging is a key step towards this.

New Zealand is a party to a number of international trade agreements including those governed by the World Trade Organization, which contain provisions to protect public health provided they are proportionate, justified, evidenced-based, least restrictive and do not discriminate.\(^ {8}\)

Global organisations will need to weigh up between trade agreements and the international treaty on tobacco control to protect public health.

The Australian High Court has ruled out tobacco companies’ allegations that plain packaging restricts the use of trade marks and takes away property.\(^ {39}\) The court ruling signals that a nation can take action in the interests of public health.

**Unduly adverse impacts on tobacco manufacturers and exporters in developing countries**

New Zealand tobacco market is dominated by three regional branches of global companies – British American Tobacco New Zealand, Imperial Tobacco New Zealand and Phillip Morris International. In 2011, the three companies comprised of 98.5 percent of cigarette sales and 97.8 percent of loose leaf tobacco sales in New Zealand.\(^ {31}\)

Evidence shows that these companies are highly competitive in one tobacco market and thus have strong ability to control the market through brand differentiations and pricing strategies.\(^ {32\text{,}33}\)

The ability for other tobacco manufacturers and exporters to enter New Zealand market is already limited.

As mentioned previously, New Zealand is a party to a number of international trade agreements including those governed by the World Trade Organization, which contain provisions to protect
public health provided they are proportionate, justified, evidenced-based, least restrictive and do not discriminate.

All tobacco companies are required to implement plain packaging. This will not discriminate or favour any tobacco manufacturers and exporters.

6. Are you concerned that a plain-packaging regime might lead to an increase in illicit tobacco trade and related ‘black market’ or criminal activity? If so, can you provide any evidence to support your concern? For example:

- what difference would plain packaging make to the incentives or opportunity for the supply of counterfeit or contraband (i.e., smuggled or non-duty paid) cigarettes?
- do you have any views as to the adequacy of measures contained in the Australian plain-packaging regime to avoid illicit trade?
- do you have any views as to the role the tobacco supply industry itself should play in preventing illicit tobacco trade?

No X

Comment: I have heard from reliable sources that home grown tobacco tastes absolutely terrible and that people who decided to continue to smoke it are not going to be swayed by traditional tobacco free regulations.

Illicit tobacco trade is not a major problem in New Zealand.

Despite the tobacco industry’s predictions of a black market fostered by tax increases, the actual figures of illicit tobacco seized by the Customs service were not significant. New Zealand Customs commented that the illicit tobacco trade was generally confined to intercepts of one to two cartons from inbound passengers to New Zealand and via the mail stream. The problem of small scale smuggling by tourist groups or aircrews was also insignificant.

Current tobacco packages are already very easy to counterfeit and the government could mandate tobacco companies for a system to verify and track tobacco products to combat counterfeit products. Track and trace systems already exist in a number of countries, based on bar codes, invisible ink techniques or sophisticated RFID chips (radio frequency identification chip). British American Tobacco has already has a digital tax verification and product authentication system in place to identify counterfeit from the real products.

The RRTC illicit trade protocol is expected to be adopted at the Conference of the Parties in November 2012. Members parties are expected to comply with the proposal on various aspects to control illicit trade problem. This will include mechanisms to impose a tracking and tracing system. The New Zealand government may consider to require the tobacco companies to have such tracking and tracing system in place provided that these identification codes will not infringe the plain packaging requirement.

7. Do you have any comments to make on any aspect of the Regulatory Impact Statement that forms part of this consultation?

Comment: No
8. Do you have any other comments on plain packaging of tobacco products that you would like to be taken into account?

Comment: Yes to abolish duty free concession and reduce number of tobacco products allowed through duty free.

Re: Illicit trade

Abolish duty-free concession

Illicit tobacco is a minor problem in New Zealand. The importation of duty-free tobacco products above the limit for personal allowances was the biggest source of illegal tobacco supply in New Zealand.

Implement licensing system for all tobacco retailing

Article 6 of the draft protocol on illicit trade in tobacco products of the FCTC has recommended parties to implement an effective licensing system for all tobacco retailing activities. This includes licensing for all tobacco retailers, manufacturers and exporters, etc. The draft protocol is expected to be adopted in the forthcoming Conference of the Parties of FCTC in November 2012.

We recommend the Government to implement a retail licensing system to any illegal sales of tobacco products.

It also provides a centralized system to record all sale activities of tobacco products in the supply chains. Having a tobacco retail licensing system is for better knowledge and control of the tobacco products on the supply side and thus a necessary step to achieve the Governments goal of a Smokefree New Zealand by 2025.
References

2. Government Response to the Report of the Maori Affairs Committee on its Inquiry into the tobacco industry in Aotearoa and the consequences of tobacco use for Maori (Final Response), Presented to the House of Representatives in accordance with Standing Order 248, 2011.
33. Gilmore AB, Branston JR, Sweeney D. The case for OFSMOKE: how tobacco price regulation is needed to promote the health of markets, government revenue and the public. *Tobacco Control* 2010;19:423-430.
34. Johnson M. Black market tobacco claim unfounded, says Customs. *New Zealand Herald* 2012 1 August 2012;5.
SUBMISSION

to the Ministry of Health on the

Proposal to introduce plain packaging of tobacco products in New Zealand

Submission on behalf of:

<table>
<thead>
<tr>
<th>Contact name: Bridget Rowse</th>
<th>Organisation: Northland DHB</th>
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</thead>
<tbody>
<tr>
<td>Email: smokefree <a href="mailto:coordinator@northlanddhb.org.nz">coordinator@northlanddhb.org.nz</a></td>
<td>Title/position: Smokefree Advisor</td>
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<tr>
<td>Phone (day): 09 430 4100 x 7908</td>
<td>Phone (alternative):</td>
</tr>
<tr>
<td>Postal address: Private Bag 9742 WHANGAREI</td>
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<td>Postcode:</td>
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7 September 2012

Plain Pack Consultation
(tobacco@moh.govt.nz)
Tobacco Control Programme
Ministry of Health
PO Box 5013
WELLINGTON

Introduction

Branded cigarette packets are a powerful marketing tool which attracts young people - our tamariki.

Every year Northland kids as young as 7-years old take their first puff on a cigarette. 10.1% of Northland students smoke regularly\(^\text{ii}\) compared to 6.2% of students nationally.\(^\text{iii}\)

Nicotine makes tobacco products highly addictive, and young smokers can show signs of addiction after only one cigarette.

Northland experiences a higher burden from smoking than the rest of New Zealand. The prevalence of adult smokers in Northland is 28.2% (compared with 21.1% for NZ), Māori (62.1%) and Pacific peoples (39.6%) have higher smoking rates than other ethnicities.\(^\text{iv}\)

Smoking in Northland is related to 25% of all deaths (47% of all Māori deaths, and 18% of non-Māori deaths). Smoking related hospitalisations in Northland (1,161 per 100,000 hospitalisations) are 1.5 times higher than the national rate.

The Case for Plain Packaging

Tobacco packaging provides a direct channel for the tobacco industry to communicate to customers. In the current regulatory environment where tobacco advertising and promotion are highly restricted, the pack design has become a key promotional tool.

Package design, logos and colouring frame consumers' perception of the tobacco brands. For many years, tobacco companies have created strong brand identities using brand imagery to associate with different segments of smokers.\(^\text{v}\)

The tobacco industry continues to expand the boundaries of package design through innovations in printing technology, package shape, and wrappings.\(^\text{vi}\)
Packaging helps to establish brand identity or brand personality in a competitive market. Smokers buy brands with imagery that could best represent their self identity.

The imagery and designs of tobacco products and packaging are attributed to particular characteristics, such as 'young', 'cool', 'male' or 'female'.

Young smokers are very responsive to tobacco branding and brand imagery as it is designed to communicate aspirational lifestyles and identities.

The use of colours, images and descriptors have been used in conjunction with brands to build strong consumer perceptions of the taste and risks of tobacco products. Consumers associate the strength of the brand with the intensity of colours, e.g. red packs connote strong flavour; green packs coolness; menthol or white packs low tar.

Plain packaging is perceived as less appealing especially among young people and non-smokers.

When asked about their perception of tobacco in plain packaging vs. branded packages, plain packaging was thought to be less attractive, poorer quality and poorer tasting, less smooth and cheaper.

Plain packaging also weakened the brand association between smokers and the products and created a less desirable smoking identity. Smokers perceived plain packaging as less trendy, less sociable and less mature than the branded packs.

Another study found that removing brand elements and significantly increasing the size of the graphic health warning reduced the attractiveness of a cigarette packet. It suggested that branding elements undermined the effect of graphic warnings.

Many other countries are considering plain packaging.

Recommendations

Research shows that plain packaging reduces the attractiveness of tobacco products to our children, and will help to them to stay smokefree. Removing any brand imagery, designs and logos of cigarette packages is necessary to protect the next generation from taking up highly addictive and lethal products.

We support the mandated plain packaging of tobacco products because:

- It will reduce the appeal of tobacco products to children, and discourage them from taking up smoking.
- It will enhance the impact of graphic health warnings that prompt quit attempts.
- Smoking kills 5000 New Zealanders every year and cigarettes should not be sold like any other normal consumer product, but treated as a dangerous drug.
- The health of New Zealand is far more important than the right of tobacco companies to market their products.
- It is an important step in New Zealand becoming smokefree by 2025.

Conclusion

I support the Smokefree New Zealand 2025 Vision, that future generations of New Zealanders will be free from exposure to tobacco products and will enjoy Smokefree lives. This Vision relies on government to play its role in legislating the policies necessary to support quitting successfully, prevent youth uptake, and regulate tobacco's supply.

Thank you for the chance to comment and I hope you will consider the above recommendations as well as the overwhelming public support for plain packing – another step closer to Smokefree New Zealand by 2025.
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<tr>
<th>Do you have any direct or indirect links to the tobacco industry?</th>
<th>Yes</th>
<th>No</th>
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<td>Are you submitting as an individual (not on behalf of an organisation)</td>
<td>Yes</td>
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<td>Are you submitting on behalf of a group or organisation(s)</td>
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ii. Regular smoking is the combined total of students who reported smoking daily, weekly or monthly.


iv. Data supplied by Public Health Intelligence from Ministry of Health's survey NZ Health Survey 2006/07.


ix. TVNZ. Packet helps smokers hide graphic warnings. New Zealand; TVNZ, 2011.


October 2012

Submission to the Ministry of Health on the Proposal to introduce plain packaging of tobacco products in New Zealand

Submitter Details:
Submission is from: Cancer Society of New Zealand Central Districts Division
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Disclaimer:
We do not have any direct or indirect links to the tobacco industry.

Yes I do give permission for my personal details to be released under the Official Information Act 1982.

About the Cancer Society of New Zealand Central Districts Division:
This submission has been compiled by the Cancer Society of New Zealand Central Districts Division. We acknowledge that the Cancer Society of New Zealand National Office and other regional divisions of the Cancer Society are also making submissions to the Ministry of Health on this subject. The Cancer Society of New Zealand, Central Districts Division is one of six regional divisions making up the Cancer Society of New Zealand. We are dedicated to reducing the incidence of cancer and ensuring the best cancer care for everyone in our region. We provide support and services to communities in the central region of the North Island from Te Taiwhiti (Gisborne) in the east, through to Hawkes Bay, across to Taranaki, Whanganui and Manawatu. We have five Cancer Society centres located in Gisborne, Hastings, New Plymouth, Whanganui and Palmerston North.

We are committed to working with our communities by providing leadership and advocacy in cancer control, with core services in Information, Support, Research and Health Promotion. The Cancer Society is a non-government organisation dependent on donations, bequests and community support.

Our Mission:
Improving community well-being by reducing the incidence and impact of cancer.

Position:
As a result of the unequivocal link between smoking and cancer, and the significant burden of smoking-related cancers in New Zealand, the Cancer Society of New Zealand considers efforts to reduce the harm caused by smoking as a priority area in cancer prevention.

The Cancer Society of New Zealand, Central Districts Division covers a large part of the central North Island of New Zealand and the division has a higher than average population of Māori, particularly in Te Taiwhiti, Hawkes Bay and Whanganui. About a third of all Maori deaths are linked to tobacco, and Maori have significantly higher lung cancer deaths compared to non-Maori. Further to this, whilst the Division’s total cancer registrations rates are within the national average; the cancer mortality rates in Taiwhiti,
Taranaki and Whanganui are higher than the national average. We have higher than average lung cancer deaths in Te Tairawhiti and Whanganui. In addition, Tairawhiti and Hawke’s Bay are regions of higher deprivation.

Every year over two thousand tamariki under ten years old take their first puff on a cigarette. With an average age of 14.6 years for smoking initiation in New Zealand, smoking initiation happens much earlier for young Māori – the average age of initiation is 14.2 years. Because nicotine makes tobacco products highly addictive, tamariki show signs of addiction after only one cigarette.

Four out of five current smokers aged 15-64 years said they would not smoke if they had their life over again. Removing any brand imagery, designs and logos of cigarette packages and increasing the size of graphic health messages is necessary to protect our future generations from ever taking up this highly addictive and lethal product.

The Cancer Society of New Zealand, Central Districts Division supports plain packaging of all tobacco products:

We therefore support the Government’s goal of achieving an essentially smokefree nation by 2025. As such, we believe this plain packaging is a necessary step which will move us one step closer to a Smokefree Aotearoa and consequently towards less tobacco related cancers that our communities will experience.

General Consultation Questions:

1. Overall do you support or oppose the proposal to introduce plain packaging of tobacco products in New Zealand, as outlined in this consultation document?

YES - We support

Use of tobacco is a major public health issue in New Zealand and is the single most preventable cause of death for New Zealander’s. Over 80% of lung cancers are caused by smoking, and lung cancer is the leading cause of cancer death in New Zealand for both Māori and other ethnicities. In all, it is estimated that smoking causes a quarter of all cancer deaths in New Zealand. It is also an important cause of health inequalities, with higher death rates for Māori and Pacific peoples.

Tobacco must then be regulated in line with the harm it causes and therefore plain packaging of all tobacco related products is so justified. As a public health measure plain packaging of tobacco products removes any ability by the tobacco industry to glamorise a product that is proven to prematurely kill half its users. Compounding these moral issues is that a majority of users become addicted whilst they are still children. Whilst we anticipate the tobacco industry arguing in this consultation that smoking is ‘an adult choice’ that does not impact on children – the evidence is clear. In New Zealand the mean age of smoking initiation is 14.6 years, with 4% starting before 12 years of age. Since young people are virtually their only source of new customers the industry has invested heavily in researching and targeting young people with marketing. As an internal tobacco industry document states: “It is important to know as much as possible about teenage smoking patterns and attitudes. Today’s teenager is tomorrow’s potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens.”

Whilst tobacco is no longer able to be displayed in retail outlets, plain packaging is still important as tobacco products are typically carried everywhere with the consumer and therefore have the potential to influence a wide sphere of people – including children. Branding and imagery of tobacco products is acknowledged as crucial by the tobacco industry: “in cigarette marketing, creating and then maintaining the right brand image is the difference between success and failure.” - John Speakman, tobacco industry marketer. The Government acknowledges it has a role in reducing tobacco related harm. The scientific evidence as set out in the consultation document shows that removing branding elements through plain packaging is one measure that has the potential to reduce this harm.
2. Do you agree that plain packaging of tobacco products has the potential to:
   - Reduce the appeal of tobacco products?
   - Increase the effectiveness of health warnings on tobacco packaging?
   - Reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking?
   - Influence the attitudes and behaviours of children and young people?

**YES**

Evidence indicates that plain packaging has the potential to achieve all the above objectives. Adults and adolescents perceive cigarettes in plain packs to be less appealing, less palatable, less satisfying and of lower quality compared to cigarettes in current packaging. Plain packaging would also affect young people’s perceptions about the characteristics and status of the people who smoke particular brands. 

Studies have also shown that by removing brand elements and increasing graphic health warnings the ‘attractiveness’ of the packet was significantly reduced. It has been suggested that branding also undermines the impact of the graphic warning, whereas using plain packaging increases the saliency and impact of the health warnings.

3. Do you agree that plain packaging of tobacco products would help to:
   - Discourage young people from taking up smoking?
   - Encourage people to give up smoking?
   - Help stop people who have quit smoking from relapse?
   - Contribute to a reduction in smoking prevalence in New Zealand and reduce people’s exposure to second-hand smoke?

**YES**

The World Health Organisation also supports the view that plain packaging is effective in preventing smoking uptake and relapse, and that it serves three functions (this was supported by a systematic review of 37 research studies on the impact of plain packaging).

- It reduces the appeal of the packaging or product;
- It increases the saliency and effectiveness of health warnings;
- It takes away the perception of the products strength and harm.

4. If New Zealand does go ahead with plain packaging, is there any reason why a significantly different scheme might be necessary or desirable for New Zealand, compared to the scheme that has been introduced in Australia?

**NO**

5. If adopted, do you think plain packaging of tobacco products might have any unintended or undesirable consequences, such as:
   - Unacceptable implications for consumers (eg limitations on consumer choice)?
   - Legal implications (eg implications for freedom of expression under the Bill of Rights Act)?
   - Adverse implications for competition or trade?
   - Unduly adverse impacts on tobacco manufacturers and exporters in developing countries?

No
The intentions of plain packaging are very clear, the result of this may seem undesirable to some initially but certainly not unacceptable when 5000 New Zealanders lives are currently sacrificed each year. The arguments that formulate undesirable consequences for tobacco companies should not be afforded a response due to the deadly nature of their product.

This question should equally discuss the possible unintended desirable consequences of plain packaging, some of which no doubt are currently being identified by the Australian Government.

6. Are you concerned that a plain packaging regime might lead to an increase in illicit tobacco trade and related ‘black market’ criminal activity?

NO

Taking into account current evidence we do not believe that there will be an increase in illicit tobacco trade and related “black market” criminal activity. Figures reported by Customs regarding seized illicit tobacco are consistently insignificant, the majority being inbound passengers bringing in cartons for their own use. Illicit tobacco trade only accounts for 0.7 to 2.0 per cent of the total tobacco consumption in New Zealand."

We agree with the following comment in the regulatory impact statement: “There is also a possibility of increased counterfeiting and black market sales of tobacco. However, this is considered unlikely, and identification codes and anti-counterfeiting markings would be allowed on packaging (as in Australia), which would negate these issues.”

7. Do you have any comments to make on any aspect of the Regulatory Impact Statement that forms part of this consultation?

Cancer Society of New Zealand Central Districts Division are concerned with areas of the regulatory impact statement that relate to potential costs to the tobacco industry as we do not believe these have been balanced with information on the cost of tobacco to society. We note that the consultation document stated “In considering the regulatory impact of plain packaging on the tobacco industry and related businesses, the Government will take into account the views and interests of the full range of stakeholders. This includes the wider public, both smokers and non-smokers, and also those exposed to ‘second-hand’ smoke. Other stakeholders include public health proponents, non-governmental organisations, academics and researchers.” Questions 9 – 20 of the consultation document provide ample opportunity for those associated with the tobacco industry to detail any thoughts they have relating to likely cost of plain packaging. However, neither the regulatory impact statement or consultation document detail the cost of tobacco to society. We do not believe that the profits of the tobacco industry (and particularly the potential decline in profits) should have any bearing on a decision to introduce plain packaging. We note that according to their Annual Financial Statements on the Companies office website for the financial year for 2011, the three leading tobacco cigarette companies which accounted for 98% of sales, made operating profits totalling $175.48 million. It should be remembered however that these profits are generated from the addiction, disease and death of our communities.

8. Do you have any other comments on plain packaging of tobacco products that you would like to be taken into account?

The Cancer Society of New Zealand Central Districts Division is committed to the Central Government’s goal of a Smokefree Aotearoa by 2025, we see Plain Packaging as an integral incremental step toward this goal. We have provided evidence to support Plain Packaging and believe that the priority of protecting our children from tobacco and tobacco products should always guide the decision making to ensure the generations to come do not suffer the mistakes of our Nation’s past.
Yours Sincerely,

[Signature]

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2 In New Zealand amongst men, 87% of lung cancer deaths are due to smoking. This figure is slightly lower for women at 79%.
I am very pleased to have this chance to make a submission on the proposal.

The government has committed New Zealand to becoming smoke-free by 2025. To achieve this goal, we need to accelerate the long-term decline in smoking prevalence. Plain packaging can play a very important part in helping the country kick the tobacco habit. We know that the purpose of packaging is to make products more attractive, and in particular, to persuade potential smokers (most of them children) that smoking is glamorous.

Tobacco is an historical anomaly. It is a legal product, but it kills half the people who use it. Long-term. For this reason, the drug should not be treated as a consumer product, like chewing gum or cough lozenges. It is a hazardous substance. There is no way we want tobacco presented as glamorous and attractive.

This is a great opportunity for New Zealand to protect the health of the population. I believe there is strong evidence that plain packaging will help discourage children from becoming addicted, and will also assist smokers to quit.

I have no direct or indirect links to the tobacco industry.

This submission was completed by:
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Are you submitting this as *(Tick one box only in this section)*:

- an individual (not on behalf of an organisation) x
- on behalf of a group or organisation(s)

Your submission may be requested under the Official Information Act 1982. If this happens, the Ministry of Health will release your submission to the person who requested it. However, if you are an individual as opposed to an organisation, the Ministry will remove your personal details from the submission if you check the following box:

* I do not give permission for my personal details to be released under the Official Information Act 1982.

Last edited by Felise Demchy on 05/10/2012 10:59 a.m.

Modifiers:
05/10/2012-10:59:50 a.m. Felise Demchy