

31 August 2012

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Dear Mr Southgate

**Subject: The Consultation on the Standardised Packaging of Tobacco Products**

1. Thank you for your letter of 3 July 2012, in relation to the consultation on the standardised packaging of tobacco products. I am replying in my role as the Department of Health's consultations co-ordinator.
2. Having carefully considered your letter, it appears that the points raised are concerns that JTI has with the policy content of the consultation, rather than with the consultation process. Such comments and views (and additional evidence) are exactly what the consultation process is designed to seek. I want to reassure you that your company's full consultation response will be carefully considered by the Department of Health.
3. I do not believe that any of the points raised in your letter identify, as you suggest, flaws in the consultation process; however, although the Department would not usually seek to respond individually to specific issues made in consultation responses, I would like to take this opportunity to clarify some of the points you make.
4. The Department of Health is careful to ensure that all of its consultations are carried out in a way, which complies with HM Government *Code of Practice on Consultation*. For ease, I have quoted relevant extracts below.
5. Although the consultation is being run by the Department of Health, I would like to clarify that the consultation is a Government document and represents the Government's position on the policy at this point. While you suggest in your letter that the Department of Health has a "preferred policy", this is not the case.
6. The consultation document has been very clear that Ministers are entirely open minded about whether or not to pursue a policy of plain or standardised packaging. The consultation seeks further information and views, including further evidence, on the potential benefits, negative effects and unintended consequences of taking forward Standardised Packaging measures.

7. The consultation was agreed at Cabinet committee level before publication. This process of cross-government agreement is set out in the *Consultation Guidance*, available from the Better Regulation website at:

<http://www.bis.gov.uk/policies/bre/consultation-guidance> (see 'Agreeing the consultation')

8. HM Government *Code of Practice on Consultation* sets out that:

*1.1 Consultation makes preliminary analysis available for public scrutiny and allows additional evidence to be sought from a range of interested parties so as to inform the development of the policy or its implementation.*

*1.2 It is important that consultation takes place when the Government is ready to put sufficient information into the public domain to enable an effective and informed dialogue on the issues being consulted on... The consultation exercise should be scheduled as early as possible in the project plan as these factors allow.*

*3.3 A "consultation stage Impact Assessment" should normally be published alongside a formal consultation, with questions on its contents included in the body of the consultation exercise.*

9. As part of the consultation process, on 16 April 2012 the Department of Health published:

- A consultation document
- A consultation-stage Impact Assessment (IA)
- An initial Equality Impact Assessment

10. I am also part of the Department of Health's Regulatory Reform Team, and can confirm that the consultation is being carried out in keeping with the Government's Better Regulation requirements.

11. In this case, the consultation-stage IA was considered by the Regulatory Policy Committee and judged to be "fit for purpose" for a consultation stage IA. The overall rating of 'Amber' recognises that there is further information which would be needed before a final stage IA could be developed, which would be required if the policy currently under consultation were to be taken forward. I note that the consultation therefore includes specific questions on the IA and seeks evidence in order to develop the IA further if needed.

12. To inform responses to the consultation and any subsequent policy-making, the Department of Health commissioned a systematic review of the evidence on plain tobacco packaging (see paragraphs 6.1-6.3 of the consultation document). The report has been peer-reviewed and was published by the Public Health Research Consortium on 16 April 2012.

13. As set out in the consultation document, the systematic review represents the work and views of the authors, not necessarily those of the Department of Health.

14. In line with paragraph 7.1 of HM Government *Code of Practice on Consultation*, I have passed your comments on the content of the consultation document to the policy team leading the consultation, who will take these into account when considering responses to the consultation. I will also consider whether there are any lessons learned from this consultation exercise, which could be shared within the department and more widely, in line with my responsibilities under paragraph 7.3 of HM *Government Code of Practice on Consultation*.
15. I understand that the Government has made clear that it has an open mind on standardised packaging. I have confirmed with my colleagues in the Department of Health's Tobacco Programme that this remains the case, and no decisions have been made. The consultation is seeking to explore whether policy action on tobacco packaging has the potential to bring public health benefits over and above those expected to accrue from existing tobacco control initiatives. We are requesting that any person or organisation with an interest provide their views and evidence.
16. Any decision to take further policy action on tobacco packaging will be taken only after full consideration is given to the consultation responses, evidence and other relevant information. If it is decided to pursue a policy that would require legislation, further consideration will be given to the most appropriate approach (see paragraphs 1.3 and 11.2 of the consultation document).

Yours sincerely



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