



14 June 2012

Tobacco Programme
Wellington House
133-155 Waterloo Road
London SE1 8UG

Mr Simon Clark
Director, Forest
Sheraton House
Castle Park
Cambridge CB3 0AX

Dear Mr Clark,

I am the Tobacco Programme Manager at the Department of Health (DH). Within my remit, I have responsibility for the tobacco packaging consultation that is currently underway. I will also have responsibility for the analysis of consultation responses and for supporting ministerial decision making on tobacco control policies in the future.

The DH Tobacco Programme is based at Wellington House, which is close to Waterloo Station in London. I was exiting Waterloo Station at 2:10pm today when I saw two men wearing "Hands Off Our Packs" shirts, asking members of the public to sign what looked like a petition.

I was interested and observed your representatives for a short period, during which I saw one of them writing frantically on the pad he was holding in full view of the public. I approached him, and saw that he was writing names and addresses on his pad, then signing the pad next to the names in different ways. During the short time I watched him, he filled completely a whole sheet. I interrupted the man and asked what he was doing. He told me about the petition he was asking people to sign. I identified myself and asked him why he was writing so many names on the sheet, but he would not answer my question.

Your representative identified himself as Rick, and told me that he worked for an agency. Rick gave me a blank copy of the petition, and this confirmed that signatures are being collected for the purposes of the packaging consultation. A copy is attached for your reference.

On the assumption that signed petitions will be sent to DH as part of your organisation's response to the consultation, I am alerting you to the possibility that forged names may have been included in your petition. I know that you will be very concerned to hear this.

If such petitions are to be submitted as part of your response to the consultation, in the light of what I have observed, it would be very useful to know what steps you will take to be able to assure the Government that the petition you ultimately send to DH only includes the names and addresses of actual people, who have signed the petition of their own accord.

I look forward to hearing from you.

Yours sincerely,

Tobacco Programme Manager
Department of Health



Support our campaign against plain packaging of tobacco



The Government has launched a public consultation on whether the UK should adopt 'plain' packaging of tobacco products. If you oppose plain packaging please enter your details below. We will submit the information to the consultation and let the Government know that you are against this measure. Consultation ends 10 July 2012.

First name _____ Last name _____

Address _____

_____ Postcode _____ signature

Email Address _____

Tick here to receive updates from the Hands Off Our Packs campaign

First name _____ Last name _____

Address _____

_____ Postcode _____ signature

Email Address _____

Tick here to receive updates from the Hands Off Our Packs campaign

First name _____ Last name _____

Address _____

_____ Postcode _____ signature

Email Address _____

Tick here to receive updates from the Hands Off Our Packs campaign

First name _____ Last name _____

Address _____

_____ Postcode _____ signature

Email Address _____

Tick here to receive updates from the Hands Off Our Packs campaign

First name _____ Last name _____

Address _____

_____ Postcode _____ signature

Email Address _____

Tick here to receive updates from the Hands Off Our Packs campaign



20 June 2012

Tobacco Programme
Wellington House
133-155 Waterloo Road
London SE1 8UG

Mr Simon Clark
Director
Forest
Sheraton House
Castle Park
Cambridge CB3 0AX

Dear Mr Clark,

I write further to my letter to you dated 14 June 2012 regarding Forest's "Hands Off Our Packs" petition.

Today, I received correspondence from

Head of the Department for Epidemiology and Public Health at the University of Nottingham, and the Chair of the Royal College of Physicians' Tobacco Advisory Group) regarding your organisation's petition on tobacco packaging.

He agreed that I can pass on to you the following section of his correspondence:

In a meeting with undergraduate medical students here at the University of Nottingham on Monday, one student informed me that he had been approached by two of his friends who I understood to be other students to sign the 'Hands off our Packs' petition. He stated that his friends had to acquire a certain number of signatures otherwise they would not get paid. He went on to say that he had signed the petition giving a false name because he felt sorry for his friends.

Obviously this is of huge concern on a number of fronts.

I seek confirmation as to whether you intend to submit the "Hands Off Our Packs" petition to the Government and whether it will form a part of your organisation's response to the consultation. While petitions can assist policy formulation by helping to gauge the public response to a consultation, as you will appreciate, this new information received by the Department of Health,

in addition to my personal observations of last week, raises questions about the process by which your organisation's petition is being undertaken.

Should you decide to submit the petition, to enable the Government to be able to properly take it into account I ask you to provide the following information:

- Did you engage any agencies or contractors to collect signatures? If so, please provide the names of the agencies.
- What is the basis upon which those obtaining signatures were employed? Are any incentives being offered as part of their remuneration? If individuals are being remunerated, is part or all of their pay dependant upon the number of signatures they obtain?
- What is the process by which signatures are being collected? What instructions have been provided by Forest about the petition to any agencies employed or to those obtaining signatures directly?
- How many individuals have been engaged to collect signatures?
- Where have those collecting signatures been located?

As I asked in my previous letter, we consider it would assist us in the consideration of any petition submitted, for you to inform us how you are ensuring and verifying that the petition only includes the names and addresses of actual people, who have signed the petition of their own accord?

I look forward to receiving your response.

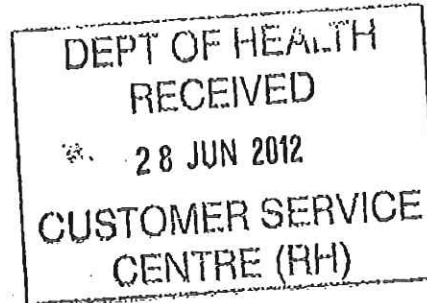
Yours sincerely,

Tobacco Programme Manager



Rt Hon Andrew Lansley CBE MP
Secretary of State for Health
Department of Health
Richmond House
79 Whitehall
London SW1A 2NS

IMPERIAL TOBACCO GROUP PLC
PO Box 244, Southville, Bristol BS99 7UJ
Tel: +44 (0)117 963 6636
Fax: +44 (0)117 966 7859



22 June 2012

Dear Secretary of State

Thank you for your letter dated 17 May in response to my letter of 20 April.

I am pleased to hear your confirmation that comments attributed to you in *The Times* that tobacco companies have "...no business in this country" were taken out of context and were regrettable. I also welcome your confirmation that you "have an open mind at this stage about introducing standardised packaging".

However I still have some concerns about the genuine and fair nature of the consultation process, as well as concerns as to the extent of "open minded" thinking around an alternative to standardised packaging. This leads me to raise a few questions on which I would welcome your clarification.

- In April of this year you were quoted as saying that "*The evidence is clear*" and "*that packaging helps to recruit smokers, so it makes sense to consider having less attractive packaging*".¹ It is our view that tobacco packaging has never been identified as a reason why children take up smoking or why adult smokers continue to choose to smoke. Given the extreme nature of the proposals under consultation, could you please confirm how the evidence, submissions and legitimate views of British business such as tobacco manufacturers, retailers, packaging organisations, other suppliers and indeed consumers will be properly and fully considered in light of your comments?
- In response to the Labour Government's 2008 Consultation on the Future of Tobacco Control, you were quoted in the Telegraph as saying "*It will come as no surprise to us if the Department of Health has funded organisations that provide the responses to consultations that the Government is looking for*".² This still appears to be the situation today. Tobacco control organisations, including ASH, still appear to have very close relationships with your department. With the issue of a statutory lobbying register and transparency so high on the public and political agenda, could you please confirm that there will be full transparency and disclosure of the role all tobacco control lobbyists, including ASH, are playing in influencing and shaping the Government and your Department's strategic direction and preferred options in relation to the packaging of tobacco products and this consultation process?

I would also like to take this opportunity to clarify the requirements of the Framework Convention on Tobacco Control ("FCTC"), specifically Article 5.3. The guideline does not

¹ <http://blogs.news.sky.com/boultonandco/Post:b2677af0-681c-4889-9148-6a4e65445050>

² <http://www.telegraph.co.uk/news/politics/4076280/Government-fixing-health-consultations-with-taxpayer-funded-groups.html>

prevent engagement and dialogue with the tobacco manufacturers and any such claims that it does are misleading and deceptive.


Imperial Tobacco continues to engage with many governments and regulatory bodies around the world, including the European Union and the Food and Drug Administration in the USA. Recently, for example, at the request of the European Commissioner for Health, John Dalli we attended a meeting to discuss the current review of the European Tobacco Products Directive³.

A significant number of people continue to choose to smoke and will continue to do so in the future and this is currently the focus of debate for a number of public health advocates and regulators worldwide. In our strongly held view the most sensible and responsible approach for Government would be to develop a rational and appropriate framework in which legitimate consumer demand for tobacco and nicotine products is met. One which seeks to achieve real public health goals rather than an irrational approach (such as standardised packaging) that simply seeks to appease a small minority of tobacco control lobbyist's intent on pursuing their own vested interests whilst achieving no public health benefit.

Imperial Tobacco remains open to and would welcome the opportunity to engage with the Government on the development of such a framework.

I look forward to receiving your reply.

Yours sincerely



Alison Cooper
Chief Executive Officer

cc. Rt Hon David Cameron MP, Prime Minister
Rt Hon George Osborne MP, Chancellor of the Exchequer
Rt Hon Dr Vincent Cable MP, Secretary of State for Business, Innovation & Skills



Japan Tobacco International

Consultations Coordinator
Department of Health
3E48, Quarry House
Leeds
LS2 7UE

Email: consultations.co-ordinator@dh.gsi.gov.uk

3 July 2012

Consultation on the standardised packaging of tobacco products

On 16 April 2012, the Department of Health sought responses from stakeholders to specific questions in respect of its consultation on standardised (also known as 'plain') packaging for tobacco products.

A copy of the consultation response which JTI has submitted, as part of this process, is enclosed. In it JTI explains why it is categorically opposed to plain packaging and supports consultation Option 1, which would retain the existing regime without adding more to the already stringent regulation in the UK. The enclosed copy of its response explains JTI's view that there is no evidence that plain packaging will work, the consultation process considering this measure is flawed, plain packaging will have extremely serious unintended consequences and alternative, effective and proportionate solutions to legitimate public health goals are available.

JTI ensures that its comments on potential regulatory measures are always carefully considered and evidence-based. Therefore, JTI's consultation response was accompanied by the expert reports of Professor Laurence Steinberg, Professors Ravi Dhar and Stephen Nowlis, Professors Alan Zimmerman and Peggy Chaudhry, Dr Andrew Lilico, Professor Martin Cave, Professor Daniel Gervais, Professor Timothy M. Devinney, and Dr Warren Keegan. Each of these reports will shortly be available at <http://jti.com/how-we-do-business/resources/>.

As mentioned above, one of JTI's key objections to the Department of Health's proposal to introduce a plain packaging measure stems from the serious flaws in the consultation process itself. Further to paragraph 13.1 of the consultation document, JTI would like to draw your attention to the various shortcomings it has identified relating specifically to the consultation process. These are set out in greater detail in JTI's response document, but they include:

- (a) internal Department of Health documents show it has actively sought evidence to support its preferred policy. This reinforces JTI's concern that the Department of Health may have already decided to introduce plain packaging, despite the lack of evidence (see paragraphs 2.12 to 2.19 of JTI's response for further detail);



- (b) the Department of Health assumes that packaging changes smoking behaviour, particularly by minors. This is not based on, or consistent with, a credible and scientifically rigorous understanding of smoking behaviour, as explained in expert reports accompanying JTI's consultation response. By ignoring this and what the Government has previously said about why people smoke in the current consultation, the Department of Health wrongly assumes that plain packaging will change smoking behaviour (see paragraphs 2.16 to 2.19 of JTI's response for further detail);
- (c) the consultation's reliance on a flawed and incomplete evidence base, which falls short of the standards required by the very Better Regulation principles the Government is committed to. The objectives of the Department of Health seek to change smoking behaviour but it has no such evidence to rely on. The 'evidence' it does have – including a review which is called systematic but which is not – is unreliable and unconvincing. The individual consumer surveys underlying the 'systematic' review test what people say they will do rather than what they actually do and are unreliable. Grouping them together does not make them reliable. The materials relied on are so weak that the Department of Health's Impact Assessment can only say that there are "plausible scenarios" under which plain packaging "could be effective". This falls well short of what the Department of Health is required to show – there is no "robust and compelling" case that plain packaging will work (see paragraphs 2.7 to 2.19 of JTI's response for further detail);
- (d) lacking evidence on smoking behaviour, the Department of Health tries to justify plain packaging using the "best guess" and "subjective views" of its preferred panel of individuals to speculate on the impact of plain packaging. This is not a reliable replacement for evidence on what the impact of plain packaging on smoking behaviour would be. The yet-to-be established 'expert panel' side-steps Better Regulation requirements. Panel membership appears to have been designed to reach a pre-determined result. This process, which the Department of Health failed to complete before consulting, in any event lacks accountability and transparency (see paragraph 2.18 of JTI's response for further detail);
- (e) unable to show an impact on smoking behaviour, the Department of Health has set its policy goals in such a way as to try and achieve the desired policy. This abuses Better Regulation and cannot hide the fundamental lack of evidence to justify plain packaging (see paragraphs 2.20 to 2.25 of JTI's response for further detail);
- (f) the Department of Health has decided to press ahead with the consultation despite the rating of its Impact Assessment by the Regulatory Policy Committee as 'Amber', indicating "*areas of concern which should be corrected*" (see paragraph 2.47 of JTI's response for further detail);



- (g) the failure of the consultation and its accompanying Impact Assessment to properly evaluate the effectiveness of existing regulation, neglecting the measures already taken in recent years to achieve the same or similar policy objectives (see paragraphs 2.26 to 2.34 of JTI's response for further detail);
- (h) the failure of the Impact Assessment to consider whether there are more proportionate alternatives to plain packaging, and most notably the failure to consider either Options 1 or 3 presented by the consultation itself. The consultation does not try to calculate the benefits of avoiding further regulatory burdens (see paragraphs 2.35 to 2.44 of JTI's response for further detail);
- (i) the inadequate consideration in the Impact Assessment of unintended consequences, such as the impact plain packaging would have on the illicit trade in tobacco products, price and competition, innovation, brand equity and intellectual property (see paragraphs 2.45 to 2.47 of JTI's response for further detail);
- (j) the lack of clarity as to whether consultation with other Government stakeholders on whom plain packaging would have a detrimental impact has taken place, for example Her Majesty's Revenue and Customs, the Treasury, the Department for Business, Innovation and Skills, the UK Intellectual Property Office and the Office of Fair Trade, to name but a few (see paragraph 2.48 of JTI's response for further detail); and
- (k) the inappropriate timing of the consultation, when similar measures are being considered by the EU (see paragraphs 2.49 to 2.51 of JTI's response for further detail).

JTI supports legislative and regulatory measures on tobacco control which meet internationally and nationally accepted principles of Better Regulation. However, JTI will question, and where necessary challenge, regulation that is flawed, unreasonable, disproportionate or without evidential foundation. The Government has made clear that it is committed to Better Regulation principles, and that regulation should only be introduced as a last resort. The Department of Health's consultation and accompanying Impact Assessment manifestly fail to satisfy Better Regulation principles (these are discussed in greater detail in paragraphs 2.2 to 2.6 of JTI's response), and are simply insufficient to justify plain packaging. In light of these shortcomings it is unsurprising that Mark Prisk MP, Minister for Business and Enterprise, admitted recently that should the Government wish to proceed with a plain packaging measure, "*the next stage would be to develop detailed proposals. These would then need to be put out for public consultation...*". The need for a further consultation, at even greater expense to the UK taxpayer, illustrates the inadequacy of the current one.



In line with Criterion 7.3 of the Government's Code of Practice on Consultation, JTI expects the serious flaws it has identified in the enclosed document about the consultation process to be added to any other concerns identified by other stakeholders and reported to the Secretary of State for Health by you, in your capacity as Consultations Coordinator. We encourage you to also make public the shortcomings identified and for them to be shared with the departments and agencies identified at paragraph 2.48 of JTI's response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Martin Southgate', is positioned below the closing text. The signature is fluid and cursive.

Martin Southgate

Managing Director, JTI UK

Enc.

To : nusrat.zar@herbertsmith.com

CC :

Subject : FOI Foll/up - 698210 Evidence of Plain Packaging connection with youth smoking

06/07/2012

DE00000707584

Dear Ms Zar,

Thank you for your request of 12 June 2012 under the Freedom of Information Act (2000).
Your exact request was:

"It is unclear from your response [of 22 May 2012] whether you believe the appropriate limit would be exceeded by establishing whether you hold such information or whether it would be exceeded by providing information that you hold. Please could you clarify this point...

Please could you explain the basis of your estimate...

1. Please could you confirm whether any evidence has been commissioned by Department or provided to the Department of Health by third parties during the period from 17 December 2010 to 16 April 2012 in connection with any potential link between the packaging of tobacco products and the taking up of smoking among children or young people? To the extent that it has, please provide copies of this information.
2. Please could you confirm whether any evidence has been commissioned by the Department of Health by third parties during the period from 17 December 2010 to 16 April 2012 in connection with the proposals for plain and/or standardised packaging for tobacco products (in particular in connection with the formulation of the impact assessment published in connection with the recent consultation on these proposals), relating to:
 - a. the competition, trade and legal implications of the proposals;
 - b. the likely impact on the illicit tobacco market of the proposals;
 - c. the public health benefits of the proposals;
 - d. the distributional impacts of the proposals, i.e. the possibility of disproportionately affecting one group in society, for example, impacts on tobacco companies, their supply chains, retailers, consumers, countries with significant investment and involvement in the tobacco trade;
 - e. the relative price movements likely to arise if the proposals were introduced, i.e. the consequences of the policy in terms of distorting or changing market forces and the wider cost or benefits that may result;

- f. the likely tax effects of the proposals;
- g. the likely dynamic effects of the proposals, including the timing of any policy effects and whether lasting change is created; or
- h. the likely unvalued effects of the proposals, i.e. costs and benefits which cannot be assigned a monetary value through weighting or other means, for example, the impact on all branded goods sectors as a result of interference with IP rights and the longer term impact on inward investment and innovation investment by brand owners."

I can confirm that the Department holds some information relevant to your request.

You have asked for clarification of whether the appropriate cost limit of £600 would be exceeded by establishing whether we hold the information requested, or whether it would be exceeded by providing information that we hold.

As set out in our letter of 22 May, we have estimated that the cost of one person spending time in "determining whether the information is held, and locating, retrieving and extracting the information" would exceed the appropriate limit of £600 (which represents 3.5 working days, or 24 hours in total). This limit is set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004 SI 2004 No 3244.

There were several factors which led to this estimate:

- Part 4 of your request referred to "any correspondence...sent and received between the Department of Health and any third party (including other Government Departments) relating to the plain and/or standardised packaging of tobacco products between 17 December 2010 and 16 April 2012 .
- An initial search of the tobacco team's electronic email files, using the search terms "plain packaging" and "standardised packaging" identified 2607 items from between 17 December 2010 – 16 April 2012 .
- The amount of time spent to check each item filed to determine whether it was potentially within the scope of your request would vary, depending on its length and complexity. However, even allowing just one minute to consider each item would mean over 43 hours would be required for this task, which would exceed the 3.5 working day limit.

In addition, as set out in our response of 22 May, there were a number of areas in your request which we suggested could be refined in order to reduce the time it would take for us to determine whether we hold information relevant to your request:

- Part 5 of your initial request covered "any meetings or conference calls between DH and representatives from organisations which support plain packaging".
- This would include meetings or conference calls with organisations such as Cancer Research UK , the Royal College of Physicians, and the Faculty of Public Health, all of whom may have reason to meet with or call a number of different teams in the Department. This would potentially have required searches of the files of 200 separate policy teams. As we set out in our response of 22 May, you may therefore have wished to limit any future request to information held by particular teams in the Department, such as the Tobacco Policy team.
- Part 1 of your initial request referred to "...factual information of evidential

relevance...". As set out in our response of 22 May, this is a very broad-ranging request with no clear specific criteria on how individual items of information should be assessed as being relevant, and with no timescale for limiting this request. Therefore we suggested that you may wish to refine the description of the type of information that you seek, and/or to reconsider the time period covered in any future request.

As required under section 16(1), in our first response we provided a suggestion of how you may want to limit your request to meet the cost limits. We also provided details of documents in the public domain, which included some of the information you sought.

For example, the Impact Assessment and Equality Impact Assessment include references to sources of evidence used (Part 1 of your request), and the PHRC systematic review of the available evidence, commissioned by the Department, was published on 16 April 2012 (Parts 2 & 3 of your request).

Revised request – 12 June 2012

In relation to your revised request (12 June 2012), I can confirm that the Department of Health has commissioned the following evidence in relation to plain or standardised packaging:

- A systematic review of the evidence on plain tobacco packaging (as referenced in our response of 22 May).

As set out in the consultation document, and our response of 22 May, to inform responses to the consultation and any subsequent policy-making, the Department of Health in England commissioned a systematic review of the evidence on plain tobacco packaging. The review was supported through the Public Health Research Consortium (PHRC), a network of researchers funded by the Department of Health's Policy Research Programme. The review was undertaken by academics at the University of Stirling, the University of Nottingham and the Institute of Education, London.

The resulting report has been peer-reviewed in accordance with the Department of Health's Research Governance Framework [1]. The report is available in the public domain so I will, under Section 21 of the Freedom of Information Act, refer you to the published source. The report is available on the PHRC's website at the link below.

The PHRC report represents the work and views of the authors, not necessarily those of the Department of Health.

http://phrc.lshtm.ac.uk/project_2011-2016_006.html

- Elicitation of subjective judgments exercise

The DH R&D Directorate also supported a smaller project to support any future development of the impact assessment. The work was undertaken as part of an existing contract with University of Cambridge - Policy Research Unit on Behaviour and Health. The project was entitled *Elicitation of Subjective Judgments of the Impact on Smoking of Plain Packaging Policies for Tobacco Products*.

Findings have been submitted to a journal for peer review and publication. The Department does not hold a copy of the draft article submitted.

The research protocol for this work has been published in a shortened form in the Impact

Assessment (Annex 2), which is available at the link below:

http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_133570

To determine whether the Department holds any information provided to the Department by third parties, a search was carried out using the search terms "plain packaging" and/or "standardised packaging" as described above. As before, this search identified 2,607 documents in the timescale given.

As above, we estimate that the amount of time spent to check each item filed to determine whether it was potentially within the scope of your request would vary, depending on its length and complexity. However, even allowing just one minute to consider each item would mean over 43 hours would be required for this task, which would exceed the 3.5 working day limit.

I should point out that the search referred to was of the tobacco policy team's central electronic database and did not include local electronic drives or individual policy official's email accounts, which would add considerably to the time required. As you may appreciate, a number of teams within the Department have an interest in the subject of your request and an exhaustive search of their records would have incurred a significant additional cost.

It would help us process any new request if you could significantly reduce the amount of time that we would require to search for information. This would increase the likelihood that it would fall within the time allowed under the Fees Regulations to search for the information you seek.

For example, you may wish to limit the timeframe of your request to a shorter period. You may also wish to make your request specific to a particular team in the Department – a link to the Department's organogram is included below:

<http://reference.data.gov.uk/gov-structure/organogram/?dept=dh&post=PSO001>

I should point out, however, that if we identify material within the scope of your request and within the maximum s.12 prohibitive costs level, we will consider whether any other exemptions are engaged, depending on the nature of the material we identify.

If you have any queries about this email, please contact me. Please remember to quote the reference number above in any future communications.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to:

Head of the Freedom of Information Team
Department of Health
Room 317
Richmond House
79 Whitehall,
London
SW1A 2NS

Email: freedomofinformation@dh.gsi.gov.uk

If you are not content with the outcome of your complaint, you may apply directly to the

Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Department. The ICO can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

Freedom of Information Officer
Department of Health

freedomofinformation@dh.gsi.gov.uk

[1] The Department of Health's *Research Governance Framework for Health and Social Care* is available on the internet at:
<http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAn>

DE00000707585

Dear Ms Zar,

Thank you for your request of 12 June 2012 under the Freedom of Information Act (2000). Your exact request was:

"1. Please could you confirm whether the Department of Health holds any quantitative or qualitative evidence, such as reports, studies or statistical data, relating to how effective the implementation of the display ban has been to date, in particular in terms of:

- (i) reducing uptake of smoking by children and young adults; and
- (ii) reducing consumer demand for tobacco products (for example in terms of any effect on the number of tobacco products sold by retailers affected by the display ban compared to the period prior to when the ban came into force); and
- (iii) whether the impact of the display ban is in line with expectations or forecasts prior to the introduction of the ban.

If the Department of Health holds such information, please provide copies.

2. Please could you confirm whether the Department of Health holds any quantitative or qualitative evidence, such as reports, studies or statistical data...which relates to:

- (i) the effect the implementation of the display ban has had to date on demand for branded tobacco products; or
- (ii) imports of tobacco products into the UK

compared to the period prior to when the ban came into force.

If the Department of Health holds such information, please provide copies.

3. Please could you confirm whether the Department of Health holds any information, including any reports, studies, correspondence or meeting notes, which discusses whether the implementation of the display ban will have any impact on the implementation of proposals for plain packaging of tobacco products, either:

- (i) in terms of the timing of the introduction of any such proposals, e.g. the extent to which the timetable for introducing plain packaging would be influenced by the impact of the display ban; or
- (ii) as to nature or scope of the plain packaging proposals, e.g. the extent to which the introduction of plain packaging proposals, e.g. the extent to which the introduction of plain packaging proposals would be influenced by evidence as to the effectiveness of the display ban.

If the Department of Health holds such information, please provide copies."

Answer

1 & 2. I can confirm that the Department does not hold information relevant to these parts of your request.

3. I can confirm that the Department may hold information relevant to this part of your request. However, to comply with your request as it is currently framed would exceed the cost limit as set out in Section 12(1) of the Freedom of Information Act. Section 12(1) states that a public authority can refuse a request if complying with it would exceed the

appropriate limit of £600 (which represents 3.5 working days). This represents the estimated cost of one person spending this time in determining whether the information is held, and locating, retrieving and extracting the information.

We have based this estimate on an initial search of the electronic files held by the Tobacco Control Policy Team. An initial search using the terms "plain packaging and display" and "standardised packaging and display" identified 4,470 items. These would all need to be reviewed to determine whether they contain information relevant to your request. The amount of time spent on each item filed would vary, depending on its length and complexity. However, even allowing just one minute to consider each item would result in 74.5 hours being spent on this task. This would exceed the 3.5 working day limit.

If you were to refine your request for information within more specific margins, for example, a request for information within a narrower timeframe, then we may be able to continue processing your request. However, I cannot guarantee that Section 12 or any other exemptions will not apply to any information requested.

You may wish to note that the current consultation on future options for standardising the packaging of tobacco products makes clear that consideration of tobacco packaging is in the context of: "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, including legislation to end the open display of tobacco in shops". I am aware that the link to all the documents relevant to the consultation was provided in a previous letter to you dated 22 May.

Also, in relation to parts 3(i) and 3(ii) of your request, you may wish to note that:

3(i) The Government has an open mind on plain packaging. Any decisions about further policy action on tobacco packaging will only be taken after full consideration of the consultation responses, evidence and other relevant information.

3(ii) Relevant information about the potential scope of any future tobacco packaging proposals that are under current consideration are set out in the published consultation document.

As you may be aware, the consultation exercise remains open until 10 July 2012. We have already received many thousands of responses. Some responses may contain material which is relevant to this FOI request but we will not commence the process of analysing consultation responses until the consultation exercise has closed. It is currently unknown how long full analysis and consideration of the responses will take.

You may wish to submit another request at a later stage, when the consultation analysis has been completed and the Government has published a report of consultation responses. Paragraph 11.1 of the 'Consultation on standardised packaging of tobacco products' document refers.

If you have any queries about this email, please contact me. Please remember to quote the reference number above in any future communications.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to:

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Department of Health
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The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

Freedom of Information Officer
Department of Health

freedomofinformation@dh.gsi.gov.uk



12/07/2012 16:12

cc

Subject Andrew Lansley - "Supporter of Plain Packs"

Dear

Thank you for taking my phone call. I am out of the office and working on an iPod so cannot send you a screen grab (will do so in the morning) but you can find the Secretary of State featured as a "Supporter of Plain Packs" on the Plain Packs Protect website here:

<http://www.plainpacksprotect.co.uk/supporters.aspx>

We would be grateful for a formal response to the question "Is it appropriate for the Secretary of State to be listed as a supporter of plain packs in the middle of a public consultation on the Issue and before the DH has published its report on the consultation responses?"

In addition, I would be grateful if you can tell us what action the DH (or the Secretary of State) intends to take on this matter.

Kind regards,

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