

EL100

[REDACTED]

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
Canterbury
CT1 9NB

BY EMAIL tobacopackaging@dh.gsi.gov.uk

4 August 2014

Dear Sir

Plain Packaging Tobacco – Opposition

This is formal response to the Department of Health's consultation on the introduction of regulations for standardised packaging of tobacco products.

I am retired and a non-smoker who has NEVER smoked and cannot understand why people do. Also I am not and have never been employed in any way with the tobacco industry, my working life was in insurance. However, I believe this country is becoming too much of a nanny state and whilst tobacco is a legal product and the Government is quite happy to collect the taxes from the sale of such, plain packaging is a step too far.

I am concerned that plain packaging will result in more counterfeit cigarettes which no doubt will find their way to children. Of course counterfeit/smuggled cigarettes means no tax income for the Chancellor but the rest of us who pay our taxes will be forced to be pay more to make up for this deficit. By keeping the sale of cigarettes legal from the local newsagent or supermarket, children will not have access to cigarettes as easily. People who deal in counterfeit cigarettes are more interested in making money than thinking about the health of those of smoke them. A shopkeeper would be in serious trouble if he sold to children and perhaps this is where our efforts to stop children smoking should be concentrated, tougher penalties for shops that break the law and more education in schools.

Plain packaging will hit the little man, the newsagent, the corner shop - all just about breaking even, but much needed in the community.

The Government cannot control everything, people must be allowed to make their own decisions, are you going to put all alcohol in plain glass bottles, all sweets in plain packets. I believe more damage is done to society by excessive by alcohol. Nobody gets into a fight after a cigarette. The cost to A&E most weekends due to alcohol must be astronomical.

We must be allowed to make our own minds up, and children cannot be shielded from everything, but they can be taught from a very early age the dangers of smoking.

Yours faithfully
[REDACTED]

Consultation on the introduction of regulations for standardised packaging of tobacco products

**Response from the Sheffield Tobacco Control Programme Board
July 2014**

Local context within Sheffield

The estimated prevalence of smoking in Sheffield is 23.2% (IHS, May 2014) this equates to over 94,000 adults aged 18+. However, this figure masks a huge variation in smoking prevalence across the city with some wards showing smoking prevalence rates above 35% - well above the national average. Every year in Sheffield approximately 900 smokers die as a direct result of smoking.

Two-thirds of current smokers start before the age of 18, and each year in Sheffield it is estimated that around 2000 children and young people start to smoke. Results from the 2013 'Every Child Matters Survey' undertaken annually in a number of secondary schools across Sheffield shows that amongst Year 7 pupils, 4.3% of those surveyed smoke, this figure increases substantially amongst Y10 pupils where 8.8% smoke regularly. The younger the age of uptake of smoking, the greater the harm as early uptake is associated with subsequent heavier smoking, higher levels of dependency, a lower chance of quitting, and higher mortality (ASH, 2014). It is therefore essential to reduce the number of young people that take up smoking at an early age.

It is estimated that smoking costs the Sheffield economy approximately £156.1m per annum, this figure includes £31m in NHS costs and £47m lost output from early deaths (ASH, 2014). Each year, smokers in Sheffield spend approximately £184.4m on tobacco products. Based on the Australian model of a 3.4% reduction in tobacco sales as a direct result of the introduction of Standardised tobacco packaging, the net saving to the Sheffield economy is estimated at £6.8m (Public Health England, 2014). The majority of these savings will directly benefit those individuals who can least afford to smoke, including those living in the most deprived areas of Sheffield, on low incomes. We therefore welcome the consultation into the introduction of standardised tobacco packaging and view it as an important strand of action to reduce the significant harm caused by tobacco in Sheffield.

Within Sheffield action to tackle tobacco is a key priority, outlined in numerous policy documents including the city's Health and Well Being Strategy and the JSNA. Much work has already been achieved to reduce the number of smokers in the city, with action coordinated by the Sheffield Tobacco Control Programme Accountable Board. The Sheffield Tobacco Control Programme Accountable Board is a multi-agency group with representatives from the following organisations;

Sheffield City Council
Sheffield Teaching Hospitals Foundation Trust
Sheffield Health and Social Care Foundation Trust
Sheffield Children's Hospital Foundation Trust
South Yorkshire Fire and Rescue Service
The Voluntary, Community and Faith sector in Sheffield

Our response to the consultation questions are as follows:

Consultation Question 1:

Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

Members of the Tobacco Control Programme Board in Sheffield believe that standardised packaging should be introduced if the available evidence supports the conclusion that the introduction of standardised packaging would be likely to:

- a) Lead to a reduction in the numbers of young people starting to consume tobacco; and
- b) Together with other policy initiatives, contribute significantly over time to a reduction in smoking prevalence rates.

The Chantler Review, rightly, reported that the evidence does indeed support this conclusion. As Sir Cyril Chantler stated in his covering letter to the Secretary of State: *"It is in my view highly likely that standardised packaging would serve to reduce the rate of children taking up smoking" and "the body of evidence shows that standardised packaging, in conjunction with the current tobacco control regime, is very likely to lead to a modest but important reduction over time in the uptake and prevalence and thus have a positive impact on public health."*

We welcome the response of Jane Ellison MP, Minister for Public Health, to the Chantler Review. She said that the report found standardised packaging was *"very likely to have a positive impact"* on public health. She went on to say: *"In the light of the report and the responses to the previous consultation in 2012, I am minded to proceed with introducing regulations to provide for standardised packaging"* and that she wished to *"proceed as swiftly as possible"*. She also reported that the Government's Chief Medical Officer, Dame Sally Davies, had written to her supporting the conclusions of the Chantler Review and the introduction of standardised packaging.¹

We therefore consider that the case for standardised packaging has been made, and that the Government should lay Regulations on standardised packaging, under Section 94 of the Children and Families Act, before Parliament as soon as possible. Given that notification to the European Union of the intended Regulations will take six months, there is now only a short time available to do this before the 2015 General Election.

Consultation Question 2:

Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging, that you wish to bring to our attention?

¹ House of Commons Hansard 3rd May 2014: Col 1018 et seq

The tobacco industry has claimed that tobacco consumption in Australia has risen since the introduction of standardised packaging; however independent evidence does not support this proposition.

The Australian Government's Department of Health has released figures showing that total consumption of tobacco and cigarettes in Australia in the first quarter of 2014 was the lowest ever recorded, as measured by estimated expenditure on tobacco products:

- \$5.135 billion in September 1959;
- \$3.508 billion in December 2012 (when standardised packaging was introduced); and
- \$3.405 billion in March 2014.

This is supported by figures from the Australian Treasury showing that tobacco clearances (including excise and customs duty) fell by 3.4% in 2013 relative to 2012 when tobacco plain packaging was introduced. Clearances are an indicator of tobacco volumes in the Australian market.²

Tobacco retailers in the UK have suggested that the introduction of standardised packaging means that it will take longer to serve customers and so convenience stores will lose custom. However, Wakefield M et al have reported that: *"retailers quickly gained experience with the new plain packaging legislation, evidenced by retrieval time having returned to the baseline range by the second week of implementation and remaining so several months later. The long retrieval times predicted by tobacco industry funded retailer groups and the consequent costs they predicted would fall upon small retailers from plain packaging are unlikely to eventuate".*³

Consultation Question 3:

Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations, as drafted?

Members of the Tobacco Control Programme Board in Sheffield welcome the draft regulations, which we consider, with the exception of the exclusion of specialist tobacco products as discussed below, are comprehensive and fit for purpose.

However, we believe that the regulations should also apply to specialist tobacco products including cigars and cigarillos. While we note the explanation for their exclusion is their low rate of use by young people, we consider that it sets an unhelpful example if any smoked

² Tobacco facts and figures: Australian Department of Health. 19 June 2014

³ Wakefield M, Bayly M, Scollo M. Product retrieval time in small tobacco retail outlets before and after the Australian plain packaging policy: real-world study: *Tobacco Control* doi:10.1136/tobaccocontrol-2013-050987.

tobacco products are excluded from the regulations, since this might be interpreted as endorsement of the idea that they are in some way less harmful to health.

It is not clear why the regulations do not specify the size of cigarette or tobacco packets. In the Australian regulations, the dimensions are stipulated, and we suggest that this may be useful in preventing any attempt to circumvent the intent of the regulations by introducing an element of branding.

Consultation Question 4:

Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

Tobacco control policies must be pursued in parallel if they are to have their best possible effect in reducing prevalence rates. It is therefore important that the UK Government gives careful thought to how to maximise the public health benefits of standardised packaging, by:

- Funding a sustained mass media campaign around the time that standardised packaging comes into effect
- Supporting enforcement through adequate funding of trading standards departments, regional partnerships against illicit trade, and work on illicit trade by HMRC and the Border Agency
- Consider tax rises on tobacco products over and above the existing escalator, particularly to counteract any possible negative effects from brand-shifting or price cutting, and
- Consider further levies on the industry, based on local sales data, and designed to fund stop smoking services and other tobacco control initiatives, and health costs caused by tobacco consumption.

[REDACTED]

From: [REDACTED]
Sent: 04 August 2014 12:06
To: Tobacco Packaging
Subject: Standardised Packaging of Tobacco Products
Attachments: ATT00001

Dera Sir/Madam,

Re: Uk Department of Health Consultation of Standardised Tobacco Products.

I don't expect this letter will make any difference to the out come of this consultation as it is being driven by I believe, people who just want to destroy the tobacco industry.

I am 63 and have mostly enjoyed working as a packaging machine technician in the cigarette industry. My father also worked in the tobacco industry and was a 50 to 60 a day smoker, which probably didn't do him any good, but he lived to 80 years of age and my mother who didn't smoke lived to 79!

I have never really had the desire to smoke, even with the temptation of free cigarets.

I believe it is an adult choice to smoke proper legal regulated tobacco products.

I believe by introducing plain packaging you will be playing directly into the hands of the counterfeit industry who are not regulated and could be using more dangerous materials to bulk-out their tobacco products and also with a huge loss to the inland Revenue, were the taxes could have been used towards the NHS.

If I were a smoker and had the choice of buying counterfeit cigarettes at a discount of say 50%, I would jump at the chance of buying them and hope that the contents were going to be ok!!!

I believe in general most people no whats good for them, but there will always be those that are just stupid or uneducated and will take drugs, sniff glue, sniff deodorants, inject various concoctions etc etc.

I am all for educating people and especially children about the dangers that are around them so that they can make an educated decision on how they can live a healthy life style.

The above is some of my reasons to be against introducing Plain Packaging.

Yours faithfully

[REDACTED]

EL 102

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EL103



Department
of Health



Llywodraeth Cymru
Welsh Government



The Scottish
Government
Riaghaltas na h-Alba



Department of
Health, Social Services
and Public Safety
www.dhsspsni.gov.uk

Consultation on the introduction of regulations for standardised packaging of tobacco products – Response Form

a. Are you responding (required):

- As a member of the public (go to question b)
- As a health or social care professional (go to question b)
- On behalf of a business or as a sole trader (go to question c)
- On behalf of an organisation (go to question c)

b. Please provide your details and contact information:

Name of respondent (required)

Address of respondent (required):

Contact email address (required):

Now go to question f

c. Please provide your organisation's details and contact information:

Name of organisation (required):

Name of person providing submission (required):

[Redacted]

Job Title (required):

[Redacted]

Contact address of organisation (required):

[Redacted]

Is this the official response of your organisation? (required):

Yes

No

d. If you are responding on behalf of a business, what type is it?

Tobacco retailer (supermarket)

Tobacco retailer (convenience store)

Tobacco retailer (other type of shop or business)

Specialist tobacconist

Duty free shop

- Wholesale tobacco seller
- Tobacco manufacturer
- Retailer not selling tobacco products
- Pharmaceutical industry
- Business involved in the design or manufacture of packaging
- Other (please provide details below)

If other, please tell us the type of business:

e. If you are responding on behalf of an organisation, what type is it?

- NHS organisation
- Health charity/NGO (working at national level)
- Local Authority
- Local Authority Trading Standards or Regulatory Services Department
- Local tobacco control alliance
- Retail representative organisation
- Industry representative organisation
- Other type of business representative organisation
- University or research organisation
- Other (please provide details below)

If other, please tell us the type of organisation:

f. Does your response relate to (required):

United Kingdom

England only

Scotland only

Wales only

Northern Ireland only

g. Do you, or the business or organisation you represent, have any direct or indirect links to, or receive funding from the tobacco industry? (required)

No

Yes (please describe below)

If yes, please describe:

To confirm, Milton Keynes Council does not hold any investments (either directly or through pooled investment funds) with any tobacco industry organisations.

Details of pension fund investments will need to be confirmed by our pension fund administrators. We are in the process of doing so.

- h. **If you do not wish your details to be identified in the summary report of consultation responses, please tick this box**

Consultation questions

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

The Chantler Review states that standardised packaging is highly likely to reduce the rate of children taking up smoking and in conjunction with the current tobacco control regime, very likely to lead to a modest but important reduction over time in the uptake and prevalence of smoking and thus have a positive impact on public health. This is extremely important for our populations in Milton Keynes, Bedford Borough and Central Bedfordshire as currently smoking costs MK society approx £55.9 million Bedford Borough approx £32.9 million and Central Bedfordshire £52.9 million overall with an estimated £28 million spent within the NHS alone across the three authorities.

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

Since the Chantler Review, there have been attempts by the tobacco industry to argue that the introduction of standardised packaging will lead to an increase in illicit tobacco trade. Evidence has been published since 2012 that proves this to be false showing no plausible mechanism of action. In addition, the House of Commons Home Affairs Committee stated 'we believe the decision on standardised packaging should be driven by health reasons and the imperative need to reduce the numbers of young people who start smoking'. This is our position here in Milton Keynes Council, Bedford Borough and Central Bedfordshire.

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

We welcome the draft regulations but would like the regulations to include specialist tobacco products such as cigars. We would also request that the regulations include the size of cigarettes and tobacco packets as stipulated in the Australian regulations in order to prevent any attempt to circumvent the intent of the regulations by introducing an element of branding.

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

We would like UK government to give careful consideration to how to maximise the public health benefits of standardised packaging by:

- Funding a mass media campaign around the time that standardised packaging comes into effect.
- Ensuring that stop smoking services are adequately funded in every locality
- Support enforcement through funding to trading standards departments, regional partnerships against illicit trade and work on illicit by HMRC and the Border Agency
- Consider tax rises over and above the existing calculator to counteract any possible negative effects from brand-shifting or price cutting
- Consider further levies on the industry based on local sales data and designed to fund stop smoking services and tobacco control initiatives and health costs caused by tobacco consumption.

Thank you for participating in this consultation.

The Department of Health and Devolved Administrations will only contact you should we seek further information about your response.

How to get involved in the consultation

The consultation will run for 6 weeks, from 26/06/14 to 07/08/14. Responses are invited from any interested group, company or person.

Respondents are encouraged to provide their views online, but responses can be made in any of the following ways:

Completing the online form on the Department of Health website at:

[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

[1](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

- o **Filling in the response form by downloading it at:**

<https://www.gov.uk/government/consultations>

- o **Emailing your response to:**

TobaccoPackaging@dh.gsi.gov.uk

- o **Posting your response to**

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB



Department
of Health



Llywodraeth Cymru
Welsh Government



The Scottish
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Riaghaltas na h-Alba



Department of
Health, Social Services
and Public Safety
www.dhsspseni.gov.uk

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a. Are you responding (required):

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Name of respondent (required)

Address of respondent (required):

Contact email address (required):

Now go to question f

c. Please provide your organisation's details and contact information:

Name of organisation (required):

Name of person providing submission (required):

[Redacted]

Job Title (required):

[Redacted]

Contact address of organisation (required):

[Redacted]
Gateshead Council
Civic Centre
Gateshead
NE1 1HH

Contact email address (required):

[Redacted]

Is this the official response of your organisation? (required):

Yes

No

d. If you are responding on behalf of a business, what type is it?

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- Industry representative organisation

Other type of business representative organisation

University or research organisation

Other (please provide details below)

If other, please tell us the type of organisation:

NEPPP is a partnership bringing together the twelve North East Local Authority Regulatory Services to provide leadership and inspiration, and do whatever it takes to ensure that the performance and impact of the North East region's public protection services transforms and improves the economy, health and environment of local communities. The Partnership represents the local authorities of Darlington, Durham, Gateshead, Hartlepool, Middlesbrough, Newcastle-upon-Tyne, North Tyneside, Northumberland, Redcar and Cleveland, South Tyneside, Stockton on Tees and Sunderland

f. Does your response relate to (required):

United Kingdom

England only

Scotland only

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Northern Ireland only

g. Do you, or the business or organisation you represent, have any direct or indirect links to, or receive funding from the tobacco industry? (required)

No

Yes (please describe below)

If yes, please describe:

- h. If you do not wish your details to be identified in the summary report of consultation responses, please tick this box**

Consultation questions

- 1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?**

1. We welcome his findings, particularly the impact that standardised tobacco packaging could have on uptake of smoking among young people

2. Tobacco use is the leading cause of premature death and preventable disease. In the North East, 5,500 deaths every year occur as a result of tobacco use, this is the major public health concern of particular concern for Local Authority Regulatory services.

3. 9,000 young people in the North East start to smoke every year and we need to do all we can to ensure that this number reduces to negligible levels. In our activity regulating age restricted products we have experience in working with young people and know they are brand conscious and attracted to 'glamorised' products and their packaging.

4. We particularly welcome Chantler's dismissal of tobacco industry scaremongering about the alleged impact of standardised packaging on the illicit tobacco trade. In our view standardised packaging will neither make the producers of illicit tobacco jobs easier or harder. Packs will still require covert marking to identify genuine product, it is this marking that we use to monitor potentially illicit packs. In the north east we have had a considerable success in reducing the size of the illicit market and do not feel that the introduction of standardised packaging will inhibit our work in this area. Recent figures from Australia have also indicated that the illicit market has not increased since the introduction of the measure and that tobacco use is at an all-time low.

<http://www.health.gov.au/internet/main/publishing.nsf/Content/tobacco-kff>

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

NEPPP supported the idea of standardised packaging in 2012 and continues to support the concept as we have seen no evidence since which has altered our views.

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

1. We broadly welcome the comprehensive draft regulations particularly in terms of:

- o The stipulated colour of tobacco packets
- o The minimum number of cigarettes or minimum weight of hand rolling tobacco that a packet can contain
- o The reassurance that these regulations will not affect other labelling requirements for tobacco products such as health warnings and fiscal marks
- o The scope of the regulations across the UK
- o The clarity of the regulations in relation to their impact on trade mark protection
- o The scope to include the changes required for Directive 2014/40/EU.

2. However there are a number of issues with the draft regulations that we would like to see addressed:

2.1 The draft regulations apply only to cigarettes and hand-rolling tobacco. We believe that the regulations should also apply to specialist tobacco products including cigars and cigarillos. The rationale for this exclusion is low rates of use, particularly by young people, and the provision is made that that the regulations could be extended if young people become increasingly attracted to these types of tobacco.

2.2 Our view is that the opportunity should not be missed to highlight to young people of the dangers of these products, before consumption increases and that the regulations should be extended now to include specialist tobacco products, rather when these products have become a problem. Niche tobacco products should also be included, specifically shisha tobacco, which is frequently advertised as 'fruit'

flavoured and is mistakenly seen as a safe alternative to traditional tobacco products.

2.3 The draft regulations do not propose requirements relating to the size or length of cigarettes. Evidence in the North East shows that young women in particular are attracted to slim cigarettes therefore regulations should be included to stipulate a minimum size of cigarette. This would also prevent any opportunity for slim cigarettes to be repositioned as cigarillos thereby becoming exempt from regulations given their specialist tobacco products status (unless this exemption is removed as recommended).

2.4 The draft regulations do not propose requirements relating to the size of cigarette or tobacco packets. Instead, the only stipulation in terms of size is 'cuboid' and this is open to interpretation. This is a real concern and a potential weakness in the regulations. Dimensions should be provided to ensure consistency and to prevent the tobacco manufacturers from determining the size themselves and using it as a means of product differentiation. In Australia, the dimensions stipulated are as follows and we recommend the UK government follows this model:

Physical features of cigarette packs

The dimensions of a cigarette pack, when the flip-top lid is closed, must not be:

- (a) height — less than 85 mm or more than 125 mm; and
- (b) width — less than 55 mm or more than 82 mm; and
- (c) depth — less than 20 mm or more than 42 mm.

2.5 Draft regulation 12 restricts additions to the basic cuboid shape of the pack, we would suggest that Reg 12(2) (f) be amended to say 'fold-out or slide-out panels, as there currently is a brand with a sliding panel, containing patterns and images.

2.6 Care must be taken to ensure that the regulations do not allow any patterns to appear on individual cigarettes

2.7 In the draft regulations there is a proposal at 10.3.(e), which prohibits packing that 'resembles a food or cosmetic container.' This could lead to confusion and is a very broad term, for example some cosmetic products are contained in cuboid outer wrappers e.g. perfumes. Specifying the pack size as above would remove the need for this clause.

2.8 The requirements prevent packaging from producing a noise or scent but do not prohibit any smell arising from a permitted additive. Tobacco manufacturers will be innovating packaging now to ensure they can work around these regulations therefore we feel than any scent other than that which normally arises from tobacco products should be prohibited. This is particularly relevant for menthol cigarettes which, under the directive 2014/40/EU, have an exemption until 2020 from the

restriction on characterising flavours. The development of capsule cigarettes shows that the tobacco industry is still innovating in this area.

2.9 The requirements only apply to retail packaging of tobacco products to retail packaging of tobacco products and not packaging that is used only within the tobacco trade, for example for stock management in a warehouse or wholesale premises. It would be preferable for the requirements to apply to all tobacco packaging to avoid any potential confusion over definitions of warehouses.

2.10 To aid enforcement of the regulations, it would assist if illustrative cigarette packs, currently in Appendix C of the consultation document, were placed in the body of the regulations. A similar approach is used in other legislation that has specific labelling or presentation requirements, for example the regulations on pack health warnings.

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

1 We welcome the overall recommendations of the consultation-stage impact assessment particularly its statement that the implementation of standardised tobacco packaging is worth pursuing now and that the cost of delaying a decision is too great in public health terms.

2 We understand the difficulty of apportioning value to certain outcomes from interventions but there are some statements within the impact assessment that are particularly difficult to accept including:

2.1 "an additional benefit [of implementing standardised packaging] is the possible enhancement of price competition between tobacco companies and the potential for accelerated product innovation to exploit other avenues for product differentiation."

2.2 "consumer surplus [identified as a cost] represents the loss of the ability of those who continue to smoke to gain the intangible benefit associated with smoking a particular brand that only the packaging of that brand, as it is currently available, can produce."

The reality is that all cigarettes, regardless of brand or price, will kill one in two of its long-term users. Making products more affordable or more attractive cannot be judged to be a benefit.

3. The impact assessment considers the potential costs that may arise through increases in the demand for and the supply of illicit tobacco. However, we draw the consultation team's attention to:

3.1 the findings of Chantler who is not convinced that standardised packaging would increase the illicit market

3.2 evidence from Australia which has shown there to be no increase in the illicit tobacco trade since the measure was introduced

3.3 the conclusion of the Home Affairs Committee inquiry into tobacco smuggling which recommended that any risks in this area could be mitigated by increasing enforcement action

3.4 Peto's view that use of specific excise taxes on tobacco (rather than ad valorem taxes), stronger tax administration, and practicable controls on organised smuggling can limit the problem. Even with some smuggling, large tax increases can substantially reduce consumption and increase revenue especially if supported by better tax enforcement

3.5 the impact that social marketing can have on reducing demand for illegal tobacco when framed within broader tobacco control activity, as seen in the North East, North West and South West where the illicit tobacco market share has reduced significantly.

4 The benefits of introducing standardised packaging identified in the impact assessment far outweigh the costs, many of which can be quantified at the North East level:

4.1 Overall, the main smoking related diseases are conservatively estimated to cost the NHS across the North East £110.4 million per year

4.2 The cost of smoking-related hospital admissions in the North East alone is calculated to be nearly £65.8 million per year

4.3 An additional £32.1 million is lost to the regional economy each year through increased levels of absence from work from smokers compared to their non-smoking counterparts, which accounts for over 361,000 additional lost days of productivity per year across the North East

5 Local authority Trading Standards officers will be tasked with enforcing this legislation and monitoring compliance, we are playing an increasing role in public health protection and in tobacco control in particular. In our experience the tobacco industry will exploit any means to continue to sell their dangerous product and monitoring these proposed changes will require a considerable allocation of resources.

6 The successful introduction of these regulations would require monitoring of the market place in addition to our other duties and we feel therefore that it is important

that the UK government invests in this vital strategic service and provides it with the leadership and powers it needs to sustain our ongoing work in this important area of public health.

Thank you for participating in this consultation.

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Completing the online form on the Department of Health website at:

[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

[1](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

- o **Filling in the response form by downloading it at:**

<https://www.gov.uk/government/consultations>

- o **Emailing your response to:**

TobaccoPackaging@dh.gsi.gov.uk

- o **Posting your response to**

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB

EL105

[REDACTED]

From: [REDACTED]
Sent: 04 August 2014 12:41
To: Tobacco Packaging
Subject: Standardised packaging of tobacco products

I am writing to oppose the Government's draft regulations about standard packaging of tobacco products.

There is no evidence that they would decrease smoking but plenty to indicate that illegal trade in tobacco products would increase.

This would be bad for the tobacco industry as a whole and the people it employs, for tax revenue and probably for consumers who may unwittingly end up smoking unregulated products that are even more harmful to their health.

Yours,
[REDACTED]

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EL106

[REDACTED]

From: [REDACTED]
Sent: 04 August 2014 13:50
To: Tobacco Packaging
Subject: Packaging of tobacco

Sir,

I would like to protest against the Irrational proposals for standardised packaging of tobacco products. Those of us who enjoy a smoke in a civilised society prefer to choose their own brand

[REDACTED]

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[REDACTED]

From: [REDACTED]
Sent: 04 August 2014 14:18
To: Tobacco Packaging
Subject: FW: Plain Packaging

-----Original Message-----

[REDACTED]

Sent: 04 August 2014 10:47
To: Tobacco Correspondence
Subject: Plain Packaging

I wish to register my objection to Plain Packaging

Signed

[REDACTED]

Sent from my iPad

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ELI08
EL108
[REDACTED]

From: [REDACTED]

Sent:

04 August 2014 14:23

To:

Tobacco Packaging

Subject:

Response to the Department of Health's consultation on the introduction of regulations for standardised packaging of tobacco products

We are A G Parfett & Sons Ltd., A Cash and Carry wholesale company selling Food Drink and Tobacco to independent retailers and caterers in the Midlands and North. We operate six large Cash & Carry depots employing nearly 600 members of staff and with a turnover of £311m in our most recent accounts. We have in excess of 10,000 customers. Approximately one third of our turnover is in Tobacco products.

We are concerned about the introduction of "Plain Packaging" on practical and evidence grounds. For the avoidance of doubt we would support any initiative that genuinely helps smokers to stop smoking and particularly anything which discourages children from smoking.

- This Government has always claimed that any new legislation will be evidence based, but all the evidence so far produced from Australia, the only region to have introduced plain packaging, shows that it has not reduced smoking but has dramatically increased the illicit trade in smuggled and counterfeit product.
- The Chantler review talked of likely impacts – very much an opinion rather than evidence.
- The proposed legislation will be in addition to the display ban whose impact has not been assessed particularly as it is not yet applicable to small stores.
- Underage smoking in Australia seems to have increased rather than declined since the introduction.
- If the illicit trade increases it means that a larger proportion of sales will be illicit (already around 14% in the UK) and by definition made by criminals with no interest whatsoever in reducing smoking in adults or children, or the health of the nation. Indeed these criminals will be handed a huge business opportunity.
- The impact assessment of 2014 is plain wrong in stating that there will be no impact on retailer efficiency. It is inevitable that serving plain packs will take considerably more time and concentration from retailers, causing added cost and burden to business and opening the doors to other criminal activity targeted at stores whilst staff concentrate on serving the requested plain pack.
- The costs and disadvantages of the new legislation will disproportionately affect small retailers as they have less resource at their disposal, and tobacco is a much bigger contributor to their overall turnover than it is for large supermarkets.
- A considerably more effective tactic would be to concentrate effort and resource on tackling the already massive illicit trade – where prosecutions have recently fallen and the Commons home affairs select committee describe the lack of serious action as "a matter of grave concern".

I sincerely hope that submitting this response is not the waste of time that many people consider it to be and that proper account will be taken of these objections. Should plain packaging be introduced (an action I would consider perverse at this stage) we do support the minor but helpful concession regarding trade packaging of tobacco product to aid identification.

[REDACTED]
Chairman

A G Parfett & Sons Ltd.

[REDACTED]
Chairman

A.G. Parfett & Sons Ltd

t. 0161 429 0429

f. 0161 480 1720
[REDACTED]

EL109



No. 1 UNION from
British American Tobacco Romania Investment SRL
Laboratorului 17-19
100070 Ploiesti
Romania

Department of Health Standardised Tobacco Packaging Consultation
PO Box 1126
CANTERBURY CT1 9NB
United Kingdom

By email: TobaccoPackaging@dh.gsi.gov.uk.

04 August 2014

To Whom It May Concern:

RE: Consultation on draft regulations for standardised packaging of tobacco products

I am writing on behalf of No. 1 UNION from British American Tobacco Investment SRL – Ploesti, Romania. We represent 560 employees in Ploesti. It is our view that the UK Government should not proceed with proposed regulations on standardised packaging for tobacco products. This proposed policy will have a negative impact on jobs in the legitimate supply chain and boost revenue for criminal gangs profiting from the black market in tobacco products.

Plain packaging will deprive legitimate businesses of their valuable intellectual property. Tobacco manufacturers will not be able to use their validly registered trademarks on lawfully available products. Our employers will not be able to rely on their trademarks to distinguish their goods from those of their competitors, or use those trademarks to provide quality assurance to adult consumers. The protection of Intellectual property is a key element supporting business and economic growth. It is disappointing that the UK Government is considering removing this protection, putting the UK at risk of breaching its obligations under international law obligations.

New evidence from Australia

The only country that has introduced plain packaging to date is Australia. Figures released by polling company Roy Morgan indicate that the long-term downward trend in smoking rates has slowed significantly since the introduction of the policy in December 2012. From 2008 to 2012 smoking incidence, or the number of people smoking, was declining at an average rate of -3.3 per cent a year. Since plain packaging was introduced that decline rate slowed to -1.4 per cent. This directly contradicts the stated purpose of tobacco control policy.

At the same time, a report issued by KPMG (commissioned by British American Tobacco, Philip Morris International and Imperial Tobacco Limited) shows that since plain packaging was introduced in Australia, the illegal tobacco trade has been boosted, with levels rising from 11.8 to 13.3% of total consumption. This total amounts to a loss of Australian government revenue of AUD \$1 billion. Since the illegal tobacco trade is so well established in the UK, it is our belief that the illegal tobacco trade in the UK would benefit from a significant boost should this policy be passed.

The KPMG report notes that 'illicit whites' have emerged as a major form of contraband over the past year. Manchester, a branded product made specifically for the black market is currently the largest illicit white brand in Australia; if it were sold legally in Australia it would have a 1.3% market share. Given that a significant level of cross-border trade in the UK there will be a strong incentive to smuggle branded product across open European borders as the Australian experience shows there will be a ready market for them.

Tobacco smugglers care little about the age of those who purchase tobacco and it would therefore be expected that the availability of lower priced tobacco to youth would be increased as a result of this policy.

Conclusion

The government must take the broader economic context into account in determining whether to proceed with this policy, particularly the impact on business. Any increase in the illicit trade will deprive the government of tax revenue and cost jobs throughout the legitimate tobacco supply chain.

As outlined above, this policy has serious unintended consequences that will affect UK businesses – both in their UK operations and overseas. The economic impacts of plain packaging must be reviewed thoroughly before any decision is taken to proceed.

We would be happy to provide further information as required.

Yours sincerely


President

From: [REDACTED]
Sent: 04 August 2014 14:41
To: Tobacco Packaging
Cc: [REDACTED]
Subject: Ref: response ANON-RRRB-5Y45-F
Attachments: Consultation 2014 Response.doc

Importance: High

Dear Sir/Madam,

I submitted a response to the Consultation on the introduction of regulations for standardised packaging of tobacco products on behalf of the Medway Tobacco Control Alliance today using your online form. Unfortunately the images included in our response did not display correctly on the online form and therefore I am submitting the attached copy of our response. As you can see, the response reference is displayed in the title bar of this email.

Kind regards,

[REDACTED]

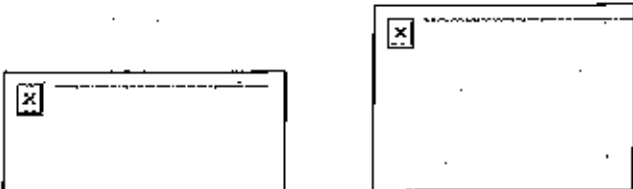
Tobacco Control Programme Manager

Public Health Directorate, Medway Council, Chatham, Kent ME4 4TR.

Tele: 01634 331074

Mob: 02718 423367

Email: angela.green@medway.gov.uk | angela.green3@nhs.net



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**Consultation on the introduction of regulations for standardised
packaging of tobacco products
Medway Tobacco Control Alliance**

The Tobacco Control Programme Manager for Medway has completed this response with the full endorsement and support of all Tobacco Control Alliance members.

Address: Gun Wharf, Dock Road, Chatham, Kent. ME4 4TR
Contact email: angela.green@medway.gov.uk

Medway Council and all members of Medway's Tobacco Control Alliance do not have any direct or indirect links to, or receive funding from, the tobacco industry. However Medway Council pensions are not managed in house.

Question 1

Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

Response

Medway Tobacco Control Alliance believes that standardised packaging would prevent uptake of smoking in young people and, as part of comprehensive tobacco control strategy, would contribute to a reduction in consumption of tobacco.

We strongly support the conclusion of Sir Cyril Chantler that it is *"highly likely that standardised packaging would serve to reduce the rate of children taking up smoking and implausible that it would increase the consumption of tobacco"* and *"that the body of evidence shows that standardised packaging, in conjunction with the current tobacco control regime, is very likely to lead to a modest but important reduction over time on the uptake and prevalence of smoking and thus have a positive impact on public health"*. Tobacco Control experts from around the world consulted in a study by Pechey et al (2013) also agreed that plain packaging reduces adult smoking prevalence and reduces the number of young people trying smoking.

In addition to the Chantler Review, there is a wealth of evidence to show the effect of tobacco packaging on uptake and continuation of smoking and research has continued with both adults and young people since the 2012 consultation. A number of studies have found that people rate plain packs as less appealing (Brose et al, 2014, Moodie & Mackintosh, 2013, Hammond et al 2013, Scheffels & Lund 2013). As well as rating them less appealing, the young female smokers in the study by Moodie and Mackintosh (2013) were more likely to hide a plain pack, cut down on their smoking, smoke less around others and more likely to think about quitting. Cigarettes in plain packaging were perceived as poorer quality (Wakefield et al 2013), likely to taste worse than those in branded packaging (Brose et al 2014, Hammond et

al 2013, Scheffels & Lund, 2013) and study participants stated that they were less motivated to purchase them (Brose et al, 2014, Hammond et al 2013).

Some studies have also looked at the effect of plain packaging on recall and perceptions of health warnings. Al-Hamdani (2013) found that adult smokers were more able to accurately recall health warnings on plain packs compared with branded packs and the participants in the study by Moodie & Mackintosh (2013) stated that they thought more seriously about health warnings displayed on plain packs.

One study carried out in Australia looked specifically at smokers from lower socioeconomic groups, who associated plain packs with less positive cigarette brand image and stated that they would be less likely to purchase these (Guillaumier et al, 2014). This is important given the higher rates of smoking amongst Routine and Manual and other socioeconomically disadvantaged groups in the UK.

In Medway we have carried out numerous engagement events with young people and adults. The aim of these events is always to prevent uptake of smoking and support smokers to quit. Since the 2012 consultation, where appropriate, we have also taken example cigarette packs to these events to gain insight into the impact that pack design can have on perceptions of smoking and appeal of certain brands. We selected a range of packets to enable us to assess the impact of colour, shape, size and style of opening. Packs included were:

- Vogue Superslims Blue (20 pack)

These particularly appealed to young women/girls. Words like 'glamorous', 'girly', 'feminine' and 'sophisticated' were used to describe the outer packaging as well as the cigarettes themselves. Many felt that this brand would look good in a handbag and a number of young women compared the pack design to that of a box of perfume, which added to its appeal. The light blue pack colour gave the impression of relaxation and purity and font style added to perceptions of glamour and sophistication.

- Sobraine Cocktail Cigarettes (20 pack, variety of colours)

These appeared to attract both males and females equally and were often the first packet that young people picked up when coming over to talk to us. When asked, it was the different colours of the cigarettes that caught their eye and many said they looked 'cool' and 'fun'. The opening of the packet and gold foil covering the cigarettes made them look 'sophisticated' and 'expensive'.

- Benson & Hedges 'Silver Slide' (20 pack)

These appealed particularly to males with the pack design and colours being seen as 'masculine'. Many liked the style of opening, saying that it was 'cool' and 'practical'.

Worryingly, we very rarely received any negative comments about the packs from young people and were asked on multiple occasions where these brands could be purchased, which was obviously not divulged.

We also took out a 'mock-up' plain cigarette packet and asked for views on this. In contrast to the packs listed previously, people used words such as 'dirty' and 'boring' to describe the plain pack. Many stated that they noticed the health warning more and disliked the colour of the pack. We found that more people said they wouldn't want to show this packet in public and this was particularly the case for females. Although we appreciate that this work does not have the validity of a formal, peer reviewed study, we still feel that it has value and that the consistency of responses from the public in Medway reflects the evidence base that packaging has a strong impact on perception of smoking, harm of a particular brand and likelihood of starting/continuing to smoke.

Whilst we understand that Articles 13 and 14 of the Tobacco Products Directive (TPD) will be implemented regardless of the decision on whether to proceed with standardised packaging we would still like to offer some information on our experiences of other tobacco features that we believe encourage smoking. When speaking to smokers in Medway, they often state that rather than quitting, or because they don't want to quit or feel unable to quit, they have switched to cigarettes they perceive as being 'more healthy'. They cite variations such as 'low tar', 'menthols', 'slims' and those containing less nicotine as being healthier. Again, we appreciate that this anecdotal evidence is not as robust as formal research but we feel it does show how these features can mislead smokers and delay/deter them from making a quit attempt.

Question 2

Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging, that you wish to bring to our attention?

Response

We agree with the conclusion of Sir Cyril Chantler "that the risks of price effects undermining the objectives of a standardised packaging policy are small and that the impacts could be readily mitigated through taxation if, nevertheless, they were to materialise. I am not convinced by the tobacco industry's argument that standardised packaging would increase the illicit market, especially in counterfeit cigarettes".

Since the introduction of plain packaging in Australia, the tobacco industry has made a number of attempts to show that illicit trade has increased. These were dismissed by the Chantler Review; *"there is no evidence that standardised packaging is easier to counterfeit, and indeed in Australia, hardly any counterfeit standardised packages have been found to date"*. Both government and charitable organisations in Australia have suggested that estimates of the illicit market have been inflated by the industry due to flawed study methods such as overestimation of illegal non-domestic consumption

and failure to account for packs brought in from abroad by visitors or students (Quit Victoria & Cancer Council Victoria, 2013).

Key security features will still be present on standard cigarette packs and the government must put faith in the ability of local and regional enforcement teams to continue with their work to stamp out illicit trade. In Medway, work to tackle illicit tobacco forms a standard part of the duties carried out by Trading Standards. More recent operations involve the successful use of sniffer dogs to identify hidden stores of illicit tobacco in retail premises. Links with our regional HMRC Team are good and regular enforcement meetings take place to map progress, share intelligence and plan future operations.

We feel that the impact of plain packaging on quit rates must also be considered. In Australia, the introduction of plain packaging was associated with a 78% increase in calls to 'Quitline', which is comparable with the increase seen when graphic health warnings were introduced, but has actually been sustained for longer than the increase seen with graphic health warnings (Young et al, 2014). Given the proven negative impact of smoking on health, this indication that plain packaging prompts quit attempts is an important argument for its adoption in the UK.

Question 3

Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations, as drafted?

Response

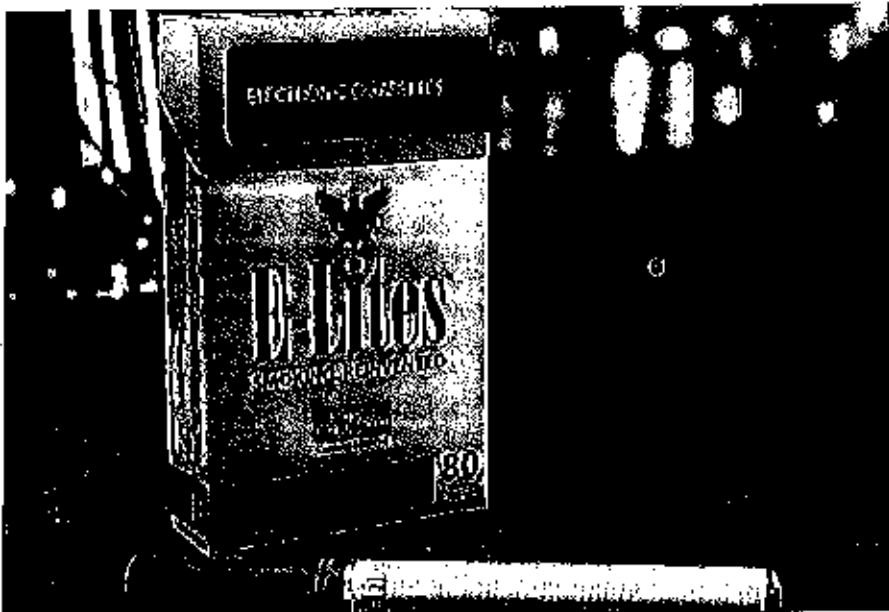
The Secretary of State's regulation-making powers in the Children and Families Act 2014 allow for standardised packaging requirements to be introduced for all or any tobacco products and given the evidence of the impact of packaging on uptake and continuation of smoking, we feel that regulations should apply to all tobacco products, including specialist tobacco products. We do not agree with the decision not to apply standardised packaging to specialist tobacco products.

There is evidence to suggest that packaging of niche tobacco products also has an effect on perception of appeal and health risks associated with use (Adkinson et al, 2014). Although this study relates to smokeless tobacco products, we feel it still illustrates the potential for packaging to be used to increase attractiveness and decrease perceptions of harm associated with use of products that currently make up a smaller portion of the tobacco market.

Given the significant negative impact of smoking on public health, we do not believe it is wise, or indeed ethical, to wait and see if the tobacco market changes and young people become increasingly attracted to specialist tobacco products. By not applying the regulations to all tobacco products, the tobacco industry is given an opportunity to entice new smokers and encourage existing smokers to continue smoking by rebranding and

remarketing more niche products such as cigars. We do not believe that current low-level use of these products will deter the industry from making full use of this opportunity.

We believe that consideration should also be given to the packaging/marketing of electronic cigarettes (e-cigs) since one of the stated objectives of a policy for standardised packaging is to reshape social norms around tobacco use. We do not see how this objective can be achieved if other products on the market are helping to renormalise smoking. Many of the first generation e-cigs strongly resemble standard cigarettes and packaging resembles that of current branded packets and makes clear links to smoking, as can be seen with E-Lites for example. Endorsement by celebrities, links with popular venues such as the O2 Arena and gimmicky marketing techniques glamorise use of these products and since each of the main tobacco companies either has a nicotine delivery device in production or on the market, power to renormalise smoking is being given back to the tobacco industry.



<http://www.marketingmagazine.co.uk/article/1193693/e-lites-partners-o2-allow-smoking-e-cigarettes-venue>



<http://www.dailymail.co.uk/tvshowbiz/article-2651756/Lily-Allen-sparks-upset-paid-plug-e-cigarettes-new-music-video.html>

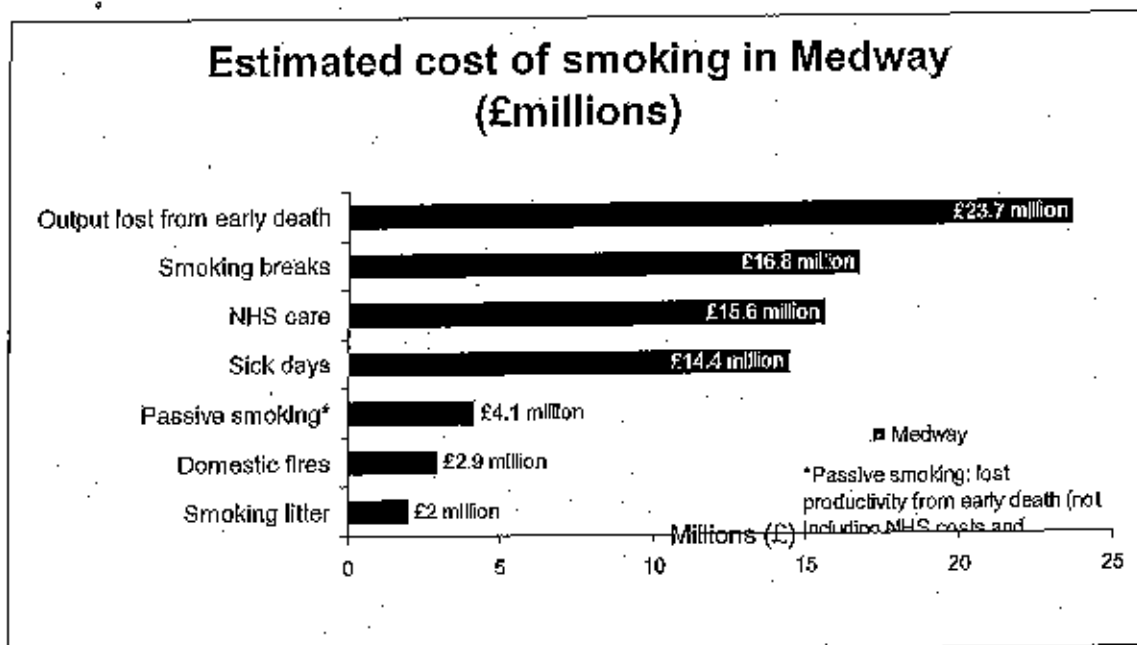
It was stated by producers that the Lily Allen music video (pictured above) was intended for audiences aged 18 and over, but as has already been seen with tobacco products marketing, this is impossible to enforce. What appeals to young adults will often appeal to people below the age of 18 as well. By renormalising and glamorising smoking in this way, e-cigarette packaging and marketing threatens to undermine efforts to prevent uptake of smoking in young people and encourage quitting in current smokers. Although e-cigarettes have not been found to be a gateway product to smoking nationally (ASH, 2014) there is anecdotal evidence that their use is increasing amongst young people in Medway.

Question 4

Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

Response

Given the current evidence of its impact on uptake of smoking and consumption of tobacco, there is a strong economic case for standardised packaging in Medway. At 25.6%, Medway's smoking prevalence is significantly higher than the England average of 19.5% as is the number of smoking related deaths in Medway (PHE, 2014). Each year in Medway, smoking costs society £79.5m (ASH, 2013):



Medway residents spend approximately £85.2m each year on tobacco products, of which only approximately £5.96m (7%) stays in the local economy (ASH, 2013) so "transition costs" to retailers mentioned in the impact assessment are likely to be minimal.

The Australian Department of Health Website states that tobacco volumes in the Australian market fell by 3.4% with the introduction of plain packaging, total consumption of tobacco in the March quarter 2014 was the lowest ever recorded and smoking rates continue to fall. If a similar effect were seen in the UK, this would have a positive effect on both the health and financial costs of smoking. Although we appreciate that this is a simplified way of looking at things, if consumption of tobacco in Medway fell by 3.4%, this would represent a reduction in annual spend on tobacco in Medway of over £2.8m.

In Australia, the introduction of plain packaging was accompanied by a national media campaign and a further injection of \$4.6m to the 'More Targeted Approach Campaign' in the coming year is announced on its Department of Health website. As in other localities, Medway has a long history of successfully amplifying national and international campaigns (such as World No Tobacco Day, National No Smoking Day and Stoptober) to raise awareness and encourage quit attempts in the local population. These campaigns have proved to be so valuable that in order to engage the public and maximise potential for plain packaging legislation to have a positive effect on public health we feel that the UK government should give full consideration to funding a similar media campaign in the UK.

Due to the aforementioned impact of plain packaging on appeal of smoking and initiation of quit attempts, the UK government should continue to invest in evidence-based stop smoking services in order to give every smoker who decides to make a quit attempt the best chances of quitting successfully.

The impact assessment makes reference to "potential increase in consumption of illicit product", something which has been dismissed by the Chantler Review. As previously stated, we do not see this as a valid argument against the introduction of plain packaging as an increase in consumption has not been seen in Australia and robust enforcement systems are in place in the UK to tackle illicit trade. We would therefore urge the government to continue to invest in local and regional enforcement activity and tobacco control partnerships.

We were concerned by the mention of *possible enhancement of price competition between tobacco companies and the potential for accelerated product innovation to exploit other avenues for product differentiation as economic benefits*. Although the fact that this could *jeopardise the achievement of public health benefits* is mentioned, we feel that this should not be allowed to occur given the scale of the negative impact of smoking on public health. As set out in the Tobacco Plan for England (2011), the government should *continue to follow a policy of using tax to maintain the high price of tobacco products at levels that impact on smoking prevalence*.

References

1. Adkison S.E., Bansal-Travers M., Smith D.M., O'Connor R.J., Hyland A.J. (2014). *Impact of smokeless tobacco packaging on perceptions and beliefs among youth, young adults, and adults in the U.S: Findings from an internet-based cross-sectional survey*. Harm Reduction Journal. 11(2): <http://www.harmreductionjournal.com/content/pdf/1477-7517-11-2.pdf>
2. Al-Hamdani M. (2013). *The effect of cigarette plain packaging on individuals' health warning recall*. Healthcare Policy, 8(3): 68-77.
3. ASH (2013). *ASH Ready Reckoner*. <http://ash.org.uk/localtoolkit/docs/Reckoner.xls>
4. Australian Department of Health (2014). *Tobacco Key Facts and Figures*. <http://www.health.gov.au/internet/main/publishing.nsf/Content/tobacco-kff>
5. Brose LS, Chong CB, Aspinall E, Michie S, McEwen A (2014). *Effects of standardised cigarette packaging on craving, motivation to stop and perceptions of cigarettes and packs*. Psychology and Health, 29(7): 849-860.
6. Department of Health (2011). *Healthy Lives, Healthy People: A Tobacco Control Plan for England*.
7. Guillaumier A.; Bonevski B., Paul C., Durkin S., D'Este C. (2014). *Socioeconomically disadvantaged smokers' ratings of plain and*

branded cigarette packaging: An experimental study. BMJ Open. 4(2):
<http://bmjopen.bmj.com/content/4/2/e004078.full.pdf+html>

8. Hammond D., Daniel S., White C.M. (2013). *The effect of cigarette branding and plain packaging on female youth in the United Kingdom.* Journal of Adolescent Health, 52(2): 151-157.
9. Hammond, D., White, C., Anderson, W., Arnott, D. & Dockrell, M. (2013). *The perceptions of UK youth of branded and standardized, 'plain' cigarette packaging.* European Journal of Public Health (2013).
10. Moodle C.S., Mackintosh A.M. (2013). Young adult women smokers' response to using plain cigarette packaging: A naturalistic approach. BMJ Open, 3(3):
<http://bmjopen.bmj.com/content/3/3/e002402.full.pdf+html>
11. Pechey R, Spiegelhalter D, Marteau TM (2013). Impact of plain packaging of tobacco products on smoking in adults and children: an elicitation of international experts' estimates. BMC Public Health, 13(18): <http://www.biomedcentral.com/content/pdf/1471-2458-13-18.pdf>
12. Public Health England (2014). *Local Health Profiles; Medway.* Accessed at:
<http://www.apho.org.uk/resource/view.aspx?RID=50215&SEARCH=medway&SPEAR=>
13. Quit Victoria & Cancer Council Victoria (2013, updated March 2014). *Analysis of KPMG LLP report on use of illicit tobacco in Australia.*
<http://www.cancervic.org.au/downloads/mini-sites/Plain-facts/analysis-kpmg-llp-report-illicit-tobacco-aust-2013.pdf>
14. Scheffels, J. & Lund, I. (2013). *The impact of cigarette branding and plain packaging on perceptions of product appeal and risk among young adults in Norway: A between-subjects experimental survey.* BMJ Open, 3(12):
<http://bmjopen.bmj.com/content/3/12/e003732.full.pdf+html>
15. Wakefield, M.A., Hayes, L., Durkin, S. & Borland, R. (2013). *Introduction effects of the Australian plain packaging policy on adult smokers: a cross-sectional study.* BMJ Open, 3(7):
<http://bmjopen.bmj.com/content/3/7/e003175.full.pdf+html>
16. Young JM, Stacey I, Dobbins TA, Dunlop S, Dessaix AL, Currow DC (2014). *Association between tobacco plain packaging and Quitline calls: a population-based, interrupted time-series analysis.* Medical Journal of Australia. 200(1): 29-32.



BESTWAY WHOLESALE

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB

4th August 2014

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Abbey Road
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London NW10 7BW
Tel: 020 8453 1234
Fax: 020 8965 7982
www.bestway.co.uk

RE: Consultation on the Introduction of regulations for standardised packaging of tobacco products

Dear Sirs,

We write to submit our formal response to the Department of Health's consultation on standardised packaging of tobacco products.

Our Business - Overview

Bestway was founded from a single London shop in 1963, and over the last 50 years has grown to become the UK's second largest Cash & Carry operator with 63 branches throughout the UK, employing 5,000 people.

We serve over 100,000 customers, 40,000 of which are Independent Retailers, who account for 65% of our sales. These retailers are typically your local neighbourhood store selling convenience goods, such as tobacco, newspapers, confectionery, soft drinks, grocery, alcohol, chilled and frozen foods.

Our annual turnover is £2.2 billion, £1.25 billion of which is tobacco products and Independent retailers account for £1bn of our total tobacco sales. Hence, tobacco sales are a huge part of our retail customers business and a key footfall driver into their stores.

Consultation Response

We wish to focus on the key points that will affect our customers' business and in turn our business in the UK.

Chantler Review

Regarding the introduction of plain packaging in Australia, the review states, "It is too early to draw definitive conclusions".

We believe that until conclusive evidence in Australia demonstrates that plain packaging has reduced smoking, the negative effects of plain packaging, such as the potential to increase the illegal trade, outweigh any benefits. We also believe that plain packaging will have very significant negative impacts on our business and the businesses of thousands of community retailers who we have served for many years.

Draft Regulations - Illicit Trade

According to a report published by KPMG, illicit trade in tobacco in Australia increased from 11.8% to 13.9% in 2013.

A similar increase in the UK would have a major impact on Independent Retailers and in turn Bestway's business, amounting to a loss of over £28m in sales for our business in the first year alone. In conjunction with the pre-existing downward trend in smoking prevalence and high proportions of Non UK Duty Paid tobacco goods legally imported into the UK, an increase in illegal trade is a further blow to legitimate businesses adhering to UK laws, and a boost for criminal networks. The introduction of plain packaging will have implications for jobs in our company and those businesses we support.



Awarded to
Bestway Wholesale Ltd

BESTWAY WHOLESALE is a trading name of Bestway Cash & Carry Ltd.
Reg Office: 2 Abbey Road, Park Royal, London NW10 7BW. Reg No 1207210
T: 020 8453 1234 F: 020 8965 0359 W: www.bestway.co.uk



DIRECTOR OF PUBLIC HEALTH



BESTWAY WHOLESAL

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www.bestway.co.uk

Plain Packaging – Price Marked Packs

We would like you to consider what we believe to be a vital point. Price marked packs (PMP's) account for 72% of our cigarette sales and 84% of RYO sales. PMP's are priced at the manufacturer's standard RRP and re-assure the consumer that they are not being overcharged in their local independent convenience store compared to multiple chains. PMP's are used in virtually all categories from confectionery and soft drinks to grocery and frozen foods, where they represent similar proportions of total sales.

We have a firmly held belief that removal of this function under plain packaging proposals would have a devastating effect on not just the independent retailers' tobacco sales, but footfall into their stores and other purchases especially in impulse categories such as confectionery and soft drinks – vital to the profitability of their business.

We have seen the dramatic downturn in sales in other non tobacco products where manufacturers move away from PMP's.

The Small Independent Retailer

Already under pressure from major chains, this could well be the end of the livelihoods for thousands of hard working independent retailers, and another step closer to a retail food industry dominated by a few major supermarket chains that have been aggressively moving into the convenience sector in recent years. It could also mean a greater number of smaller communities not served by a local independent store at all. This damage to our customer's business would immediately impact on our business, again with potentially damaging consequences. The independent retailer is at the hub of the community and the local people rely on the service. This shift towards standardised packaging would do nothing for the reduction in smoking; just drive smokers to buy their product elsewhere where they have a perception of better value.

Should you wish to seek further information on our response please do not hesitate to contact us.



Group Trading Director



awarded to
Bestway Wholesale Division

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INVESTOR IN PEOPLE



Department of Health



Llywodraeth Cymru
Welsh Government



The Scottish Government
Riaghaltas na h-Alba



Department of
Health, Social Services
and Public Safety
www.dhsspsni.gov.uk

Consultation on the introduction of regulations for standardised packaging of tobacco products – Response Form

a. **Are you responding** (required):

- As a member of the public (go to question b)
- As a health or social care professional (go to question b)
- On behalf of a business or as a sole trader (go to question c)
- On behalf of an organisation (go to question c)

b. **Please provide your details and contact information:**

Name of respondent (required)

Address of respondent (required):

Contact email address (required):

Now go to question f

c. **Please provide your organisation's details and contact information:**

Name of organisation (required):

Name of person providing submission (required):

Job Title (required):

Contact address of organisation (required):

Contact email address (required):

Is this the official response of your organisation? (required):

Yes

No

d. If you are responding on behalf of a business, what type is it?

Tobacco retailer (supermarket)

Tobacco retailer (convenience store)

Tobacco retailer (other type of shop or business)

Specialist tobacconist

Duty free shop

- Wholesale tobacco seller
- Tobacco manufacturer
- Retailer not selling tobacco products
- Pharmaceutical industry
- Business involved in the design or manufacture of packaging
- Other (please provide details below)

If other, please tell us the type of business:

e. If you are responding on behalf of an organisation, what type is it?

- NHS organisation
- Health charity/NGO (working at national level)
- Local Authority
- Local Authority Trading Standards or Regulatory Services Department
- Local tobacco control alliance
- Retail representative organisation
- Industry representative organisation
- Other type of business representative organisation
- University or research organisation
- Other (please provide details below)

If other, please tell us the type of organisation:

f. Does your response relate to (required):

United Kingdom

England only

Scotland only

Wales only

Northern Ireland only

g. Do you, or the business or organisation you represent, have any direct or indirect links to, or receive funding from the tobacco industry? (required)

No

Yes (please describe below)

If yes, please describe:

h. If you do not wish your details to be identified in the summary report of consultation responses, please tick this box

Consultation questions

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

PLEASE SEE ADDITIONAL DOCUMENT ATTACHED

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

Thank you for participating in this consultation.

The Department of Health and Devolved Administrations will only contact you should we seek further information about your response.

How to get involved in the consultation

The consultation will run for 6 weeks, from 26/06/14 to 07/08/14. Responses are invited from any interested group, company or person.

Respondents are encouraged to provide their views online, but responses can be made in any of the following ways:

Completing the online form on the Department of Health website at:

[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

[1](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

- **Filling in the response form by downloading it at:**

<https://www.gov.uk/government/consultations>

- **Emailing your response to:**

TobaccoPackaging@dh.gsi.gov.uk

- **Posting your response to**

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB

Consultation on the introduction of regulations for standardised packaging of tobacco products

Response from Action on Smoking and Health (ASH) Wales

1. ASH Wales is the only public health charity in Wales whose work is exclusively dedicated to tackling the harm that tobacco causes in Welsh communities.

We are engaged in a wide range of activities including:

- Advocating for tobacco control public health policy;
- Undertaking tobacco control research and projects;
- Training young people and those who work with young people to provide factual information about the health, economic and environmental effects of smoking;
- Engaging young people and professionals working with young people through the ASH Wales Filter project;
- Bringing health information and advice to the heart of the community.

We also oversee the Wales Tobacco or Health Network (a network of over 300 individual members) and the Wales Tobacco Control Alliance (an alliance of 35 voluntary and professional bodies in Wales) providing forums for sharing knowledge and best practice. Further information about our work can be found at <http://www.ashwales.org.uk>

Consultation Question 1: Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

2. ASH Wales believes that standardised packaging should be introduced if the available evidence supports the conclusion that the introduction of standardised packaging would be likely to:
 - Lead to a reduction in the numbers of young people starting to consume tobacco; and
 - Together with other policy initiatives, contribute significantly over time to a reduction in smoking prevalence rates.
3. Every day in Wales an estimated 39 teenagers (aged 11-15) try smoking cigarettes, introducing them to a truly deadly product¹. We know from talking to children and young people from around Wales that packaging and branding impacts upon their perception of the attractiveness of tobacco products. They were shocked by some of the shiny and "cool" looking cigarette packs and said they should not be sold in glamorous packaging that might tempt children to try smoking. They said some of the coloured packaging looked like they contained chewing gum, perfume, posh tissues and even Lego.
4. When shown samples of standardised packaging based upon the Australian example, these were some of their responses:

¹ Estimate calculated on figures from Welsh Health Behaviour in School-aged Children Survey 2009/10.

- "The packs will show what it actually does, they will say the truth." Female, aged 14, Prestatyn
 - "It looks more medical. If you had a choice between that and the others you wouldn't choose it." Female, aged 14, Prestatyn
 - "I've never smoked and now I never will." Male, aged 13, Swansea
 - "They'll think the plain packs are horrible and won't want to end up like it." Male, aged 11, Blackwood
 - "The warning is only on the back of the coloured ones and you don't have to read it." Female, aged 11, Blackwood
5. As Sir Cyril Chantler stated in his covering letter to the Secretary of State: *"it is in my view highly likely that standardised packaging would serve to reduce the rate of children taking up smoking"* and *"the body of evidence shows that standardised packaging, in conjunction with the current tobacco control regime, is very likely to lead to a modest but important reduction over time in the uptake and prevalence and thus have a positive impact on public health."*
6. A report by Professor David Hammond for the Irish Department of Health² backs up Sir Cyril Chantler's view. He concluded that,
- "Overall, the existing evidence on plain (standardised) packaging supports four primary conclusions:*
- 1) *Plain packaging will reduce smoking initiation among youth and young adults.*
 - 2) *Plain packaging will promote smoking cessation among established smokers.*
 - 3) *Plain packaging will support former smokers to remain abstinent.*
 - 4) *Plain packaging will help to denormalize tobacco use."*
7. We welcome the response of Jane Ellison MP, Minister for Public Health, to the Chantler Review. She said that the report found standardised packaging was *"very likely to have a positive impact"* on public health. She went on to say: *"In the light of the report and the responses to the previous consultation in 2012, I am minded to proceed with introducing regulations to provide for standardised packaging"* and that she wished to *"proceed as swiftly as possible"*. She also reported that the UK Government's Chief Medical Officer, Dame Sally Davies, had written to her supporting the conclusions of the Chantler Review and the introduction of standardised packaging.³
8. We therefore consider that the case for standardised packaging has been made, and that the UK Government should lay Regulations on standardised packaging, under Section 94 of the Children and Families Act, before Parliament as soon as possible. Given that notification to the European Union of the intended Regulations will take six months, there is now only a short time available to do this before the 2015 UK General Election.
9. The Government should resist efforts by the tobacco industry and its surrogates to delay decision-making and laying of the regulations before Parliament. As outlined below, there is now

² Hammond, D. Standardized Packaging of Tobacco Products. Evidence Review. Prepared on behalf of the Irish Department of Health. March 2014.

³ House of Commons Hansard 3rd May 2014: Col 1018 et seq

strong evidence that the industry's arguments are either weak or without foundation^{4 5 6} while their data on illicit have been shown to be highly misleading.⁷

Consultation Question 2: Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging, that you wish to bring to our attention?

Standardised packaging needs to be part of a comprehensive strategy

10. Tobacco control policies must be pursued in parallel and not serially if they are to have their best possible effect in reducing prevalence rates. The optimum date for implementation of standard packaging would be May 2016 at the same time as implementation of the EU Tobacco Products Directive (TPD), which includes updated larger health warnings and graphic warnings on the front of the packs.
11. Standardised packaging was introduced in Australia as part of a comprehensive strategy. This included larger health warnings (75% rather than the 65% in the TPD), mass media campaigns and reducing affordability by increasing taxation. Australia is committed to annual increases in tobacco taxation of 12.5 per cent over inflation each year for four years, starting in December 2013⁸, a far higher increase than the current escalator in place in the UK which is only 2% above inflation. The Australian strategy has been very successful with a significant increase in calls to the quitline, and a significant decline in tobacco consumption immediately following implementation of plain packaging.⁹
12. To introduce a mass media campaign equivalent to Australia at the time of the introduction of plain packaging, would, on a per capita basis, cost the equivalent of £33.7 million a year in the UK, a far higher amount than is currently being spent here. In relation to mass media campaigns it is important to note that new evidence from the UK shows that mass media campaigns are highly effective in reducing smoking prevalence and consumption,¹⁰ that both the negative and positive emotive campaigns used in the UK are effective in this respect¹¹ and the suspension of campaigns significantly reduced quitting activity (calls to quit lines and use of smoking cessation

⁴ Evans-Reeves, K.A., Hatchard, J., Gilmore, A. 'It will lead to negative unintended consequences': An evaluation of the relevance, quality and transparency of evidence submitted by the tobacco industry to the UK Consultation on standardised packaging. March 2014. European Conference on Tobacco or Health.

⁵ Ulucanlar S, Fooks GJ, Hatchard JL, et al. Representation and Misrepresentation of Scientific Evidence in Contemporary Tobacco Regulation: A Review of Tobacco Industry Submissions to the UK Government Consultation on Standardised Packaging PLoS Med. 2014; (3):e1001629.

⁶ Hatchard JL, Fooks GJ, Evans-Reeves KA, et al. A critical evaluation of the volume, relevance and quality of evidence submitted by the tobacco industry to oppose standardised packaging of tobacco products. BMJ Open. 2014; (2).

⁷ Gilmore A, Rowell A, Gallus S, Lugo A, Joossens L, Sims M. Towards a greater understanding of the illicit tobacco trade in Europe: A review of the PMI funded "Project Star" report. Tobacco Control Published Online First: 12 December 2013. doi:10.1136/tobaccocontrol-2013-051240

⁸ Griffiths E, Cullen S. Smokers slugged in Government's plan to raise \$5.3 billion. ABC News, 1 August 2013

⁹ Tobacco: Key facts and figures Australian Government, Department of Health

¹⁰ Sims M, Salway R, Langley T, Lewis S, McNeill A, Szatkowski L, Gilmore A Effectiveness of tobacco control television advertising in changing tobacco use in England: a population-based cross-sectional study Addiction 2014; 109: 986-94.

¹¹ Sims M, Langley T, Lewis S, Richardson S, Szatkowski L, McNeill, Gilmore AB. Effectiveness of tobacco control television advertisements with different types of emotional content on tobacco use in England, 2004-2010. Tobacco Control. Published Online First 18 July 2014 doi:10.1136/tobaccocontrol-2013-051454

literature and websites).¹² Yet currently in the UK mass media campaigns are not consistently being screened at a level that would maximise their effectiveness.¹³

13. The Welsh Government should review elements of the Tobacco Control Action Plan for Wales to ensure that these align with, and allow for the maximisation of, the introduction of standardised packaging to reduce smoking prevalence in Wales, which continues to be higher than that in England.

Impact of standardised packaging on the illicit market

14. A principal tobacco industry argument against standardised packaging has been that the illicit trade in tobacco in the UK is on the increase and that plain packaging will inevitably exacerbate this trend. There is no good reason to accept either of these arguments. With respect to the first argument tobacco industry data purporting to show an increase in illicit is misleading, with respect to the second there is no plausible mechanism of action by which plain standardised packaging would lead to an increase in the size of the illicit market, and indeed evidence published since the 2012 consultation suggests that it is false.

Misleading nature of tobacco industry data on illicit

15. Research and leaked industry documents have now established that claims by industry that rates of illicit tobacco use are increasing markedly in the UK and will increase further following standardised packaging should be seen simply as part of the tobacco industry's public relations campaign to prevent the policy.¹⁴ Analysis shows that the number of press articles citing industry data on illicit increased suddenly once standardised packaging emerged on the policy agenda, that industry data significantly exaggerate the scale of illicit and claim trends are upwards when independent data show the opposite.¹⁴ Further, evidence cited in industry submissions to support its claims that standard packaging will increase illicit has been shown to be very poor quality and effectively manufactured by the industry to support its case – all such 'evidence' was produced by industry or those funded by it and none was peer-reviewed.⁴
16. Part of this strategy has been to fund a growing number of third parties – organisations and individuals (notably ex-policemen) – who provide a more credible voice in debates, produce reports which are presented as independent while reinforcing industry messages. Yet the links to industry have rarely been disclosed.^{4 15}
17. More broadly, growing evidence from a number of jurisdictions now suggests that tobacco company commissioned data and evidence on illicit, including that published by leading accountancy firms, will tend to over-estimate the scale of the illicit trade, exaggerate the upward

¹² Langley T, Szatkowski L, Lewis S, McNeill A, Gilmore AB, Salway R, Sims M. The freeze on mass media campaigns in England: a natural experiment of the impact of tobacco control campaigns on quitting behaviour. *Addiction* 2014; 109: 995-1002

¹³ Langley T, Lewis S, McNeill A, Gilmore A, Szatkowski L, West R, Sims M. Characterizing tobacco control mass media campaigns in England. *Addiction* 2013;108(11):2001-8

¹⁴ Rowell, A., K.A. Evans-Reeves, and A. Gilmore. Tobacco industry manipulation of data on and press coverage of the illicit tobacco trade in the UK. Tobacco Control, 2014.

¹⁵ See for example:

http://www.tobaccotactics.org/index.php/Tobacco_Industry_Responds_to_UK_Plain_Packaging_Consultation

trend (either by exaggerating current levels or by revising historical figures downwards) and misrepresent the nature of the trade in order to down-play the extent of tobacco industry involvement.^{16 17 18 19 20 21 22}

18. Although empty pack surveys can provide accurate figures on the extent of non-domestic tobacco use, the limited methodological detail available on the tobacco industry's empty pack surveys which usually form the basis of their data suggest that the industry may be deliberately designing these surveys to exaggerate the extent of the illicit trade.^{16 19}
19. In a public climb-down following criticism of its previous data which suggested that in 2012 rates of illicit in the UK had suddenly increased countering previous trends, KPMG's latest report, this time commissioned by all four transnational tobacco companies, has revised its illicit estimate for the UK illicit trade downwards stating that "*alternative data sources suggest this [the 2012 estimate] may have overstated non-domestic incidence for the full year*"²³ They claim that additional data which were not previously available to them "*suggest there has been a more gradual decline from 2011 to 2013*" (pages 300-302). It is a moot point whether these figures would have been revised without academic criticism of KPMG's data for industry both in the UK¹⁶ and Australia²⁴ and this revision undermines the industry's public claims about illicit.
20. Growing evidence also suggests that the tobacco manufacturers continue to facilitate the illicit trade in their products and at best are failing to control their supply chains.^{25 16} In October last year the Chair of the Public Accounts Committee said that: "*The supply of some brands of hand-*

¹⁶ Van Walbeek C, Shai L. Are the tobacco industry's claims about the size of the illicit cigarette market credible? The case of South Africa. Tobacco Control Published Online First 11 June 2014 doi:10.1136/tobaccocontrol-2013-0514412014

¹⁷ Gilmore A, Rowell A, Gallus S, Lugo A, Joossens L, Sims M. Towards a greater understanding of the illicit tobacco trade in Europe: A review of the PMI funded "Project Star" report. Tobacco Control Published Online First: 12 December 2013. doi:10.1136/tobaccocontrol-2013-051240.

¹⁸ Van Walbeek C. Measuring changes in the illicit cigarette market using government revenue data: the example of South Africa. Tobacco Control Published Online First: 15 January 2014 doi:10.1136/tobaccocontrol-2013-051178.

¹⁹ Stoklosa M, Ross H. Contrasting academic and tobacco industry estimates of illicit cigarette trade: evidence from Warsaw, Poland. Tobacco Control Published Online First 13 August 2013

²⁰ Analysis of KPMG LLP report on use of illicit tobacco in Australia 2013 Full year report. Quit Victoria, Cancer Council Victoria: 12 April 2014 <http://www.cancervic.org.au/downloads/minisites/Plain-facts/analysis-kpmg-illicit-tobacco.pdf>

²¹ Illicit trade of tobacco in Australia: A report prepared by Deloitte for British American Tobacco Australia Limited, Philip Morris Limited and Imperial Tobacco Australia Limited. Quit Victoria, Cancer Council Victoria. March 2011 [updated November 2011]

²² Illicit trade of tobacco in Australia: Report for 2011: A report prepared for British American Tobacco Australia Limited, Philip Morris Limited and Imperial Tobacco Australia Limited. A critique by Quit Victoria. Cancer Council Victoria. May 2012.

²³ KPMG. Project Sun- A study of the illicit cigarette market in the European Union. 2013 Results.

²⁴ Analysis of KPMG LLP report on use of illicit tobacco in Australia: 2013 Full year report. Quit Victoria, Cancer Council Victoria, April 2014.

²⁵ House of Commons Committee of Public Accounts. HM Revenue & Customs: Progress in tackling tobacco smuggling. HM Revenue & Customs: Progress in tackling tobacco smuggling. 4 Sept. 2013

rolling tobacco to some countries in 2011 exceeded legitimate demand by 240%. HMRC must be more assertive with these manufacturers. So far it has not fined a single one of them."²⁶

21. Even the industry's own data indicates that around a fifth of illicit cigarettes across the EU are PMI's own brands, a level which outstrips counterfeit PMI product approximately five times¹⁶ while Imperial Tobacco's brand *Classic* which, until recently, it was producing in Ukraine, was so consistently found in the illicit market it was labelled as an illicit white product.²⁷

Lack of plausible mechanism of action by which standardised packaging would cause an increase in illicit

22. Consistent with the highly misleading nature of industry data on illicit outlined above, there is no plausible mechanism of action because all the key security features on existing packs of cigarettes would also be present on standardised packs, and additional markings will be required under the EU Tobacco Products Directive. These include unique identifiers, coded numbering, and covert anti-counterfeit marks. Jane Ellison, Parliamentary Under-Secretary of State for Health, said in a November 2013 Parliamentary debate that: *"I am grateful to those hon. Members who have made the point that if we were to adopt standardised packaging, it would not mean plain packaging. Approaches such as anti-smuggling devices could be built into standardised packaging, if we choose to go down that route."*²⁸
23. The production costs of illicit cigarettes (including packaging) are very low. In Paraguay costs can be as low as 5 US cents a pack; a Jin Ling pack in Kaliningrad or a Chinese counterfeit pack may cost about 20 cents a pack to produce. Counterfeiters are also able to produce quality and apparently genuine packaging at low prices in a short time. It follows that outside packaging is a very poor indicator of whether a pack of cigarettes is licit or illicit.²⁹ The only obvious circumstances in which external packaging could be useful in this respect is precisely if standardised packaging is introduced – which would of course enable easy visual identification of "cheap white" brands (ones with no licit market in the UK) and diverted licit brands (where the first destination market was in a country without standardised packaging, and the product has been diverted into illicit channels).
24. Number codes will develop further into an international standard system because of the requirements of Article 15 of the revised EU Tobacco Products Directive and Article 8 of the Illicit Trade Protocol, a subsidiary treaty under the WHO Framework Convention on Tobacco Control, to which the UK is a Party.
25. Article 15 of the Tobacco Products Directive states that: *"Member States shall ensure that all unit packets of tobacco products are marked with a unique identifier. In order to ensure the integrity of the unique identifier, it shall be irremovably printed or affixed, indelible and not hidden or interrupted in any form, including through tax stamps or price marks, or by the opening of the unit packet."*³⁰

²⁶ PAC publishes report on tackling tobacco smuggling. Public Accounts Committee press release. 10th October 2013

²⁷ Directorate-General for Internal Policies; Policy Department Budgetary Affairs. Workshop Cigarette Smuggling: Briefing papers. European Parliament 22 January 2014.

²⁸ Hansard: Backbench business debate. HoC Column 477. (7 November 2013)

²⁹ Joossens L. Smuggling, the Tobacco Industry and Plain Packs Cancer Research UK, Nov. 2012

³⁰ Text of the revised EU Tobacco Products Directive: Article 15

26. Article 8.3 of the Illicit Trade Protocol states that: *"With a view to enabling effective tracking and tracing, each Party shall require that unique, secure and non-removable identification markings (hereafter called unique identification markings), such as codes or stamps, are affixed to or form part of all unit packets and packages and any outside packaging of cigarettes within a period of five years and other tobacco products within a period of ten years of entry into force of this Protocol for that Party".*³¹
27. It should be noted that Philip Morris International has developed a coding system called "Codentify", which the company has licensed for free to JTI, IT and BAT. The four tobacco multinationals have set up a "Digital Coding and Tracking Association", based in Zurich. According to PMI, the system is based on unique twelve digit codes, which enable enforcement authorities to determine key information including: date, time, factory and line of production and intended target market. Since the codes are based on a secure algorithm, it is claimed that it would be a simple matter to identify "fake" codes on illicit packaging. PMI's promotional material claims that "Codentify".... *"makes the leap into the digital age and can meet the demands of governments that want to improve tax revenue collection, the robustness of verification processes and supply chain security ... When it comes to protecting government tax revenues, securing the supply chain and fighting illicit trade, Codentify offers a highly advanced, secure and cost-effective solution for the 21st century".*³²
28. It is clear that the tobacco industry is promoting contradictory messages depending on which issue it is addressing: on the one hand it claims to have a robust coding system which enables it to identify counterfeit products, and on the other it claims that pack design is vital in combatting illicit trade. While we do not support the use of a coding system which is proprietary to the tobacco industry as is the case with Codentify it is certainly the case that this or any other coding systems independent of the industry could be used on standardised packs as readily as on branded ones.
29. Not surprisingly therefore Andrew Leggett, Deputy Director for Tobacco and Alcohol Strategy at HM Revenue and Customs has said about standardised packaging that *"we're very doubtful that it would have a material effect [on counterfeiting and the illicit trade in tobacco]"*.³³ This conclusion was supported by the House of Commons Home Affairs Select Committee, in its report on the illicit tobacco trade published in June 2014. The Committee reported that: *"We believe that the decision on standardised packaging should be driven by health reasons and the imperative need to reduce the numbers of young people who start smoking. We note the statement of Sir Cyril Chantler to the effect that he was not convinced that standardised packaging would bring about an increase in the illicit market; even if this were the case, we believe that the proper response would be a more vigorous effort on enforcement rather than any lessening in the Government's drive towards introducing standardised packaging."*³⁴

Evidence from Australia on Illicit Tobacco

30. The tobacco industry has repeatedly claimed that the level of illicit trade in Australia has increased since, and as a result of, the introduction of standardised packaging. For example, BAT

³¹ Text of the Illicit Trade Protocol: Article 8.3

³² http://www.pmi.com/eng/documents/Codentify_E_Brochure_English.pdf

³³ Oral evidence to the House of Lords European Union Sub Committee (Home Affairs) on 24th July 2013.

³⁴ [Home Affairs Select Committee First Report on Tobacco Smuggling](#); paragraph 44

told investors in March 2014 that total illicit activity in Australia had risen by more than 30 per cent since the introduction of standardised packaging.³⁵

31. These claims were examined during the Chantler Review and shown to be unsupported, a fact that was effectively admitted during Review meetings with representatives of the tobacco industry in Australia.³⁶ The Australian Government and customs officials have also rejected tobacco industry claims that illicit trade in Australia has risen since the introduction of standardised packaging.³⁷ In March 2014 the *Sydney Morning Herald* reported that there had been only one seizure of counterfeit plain packs since December 2012.³⁸
32. In response to this article, the paper was contacted by Sonia Stewart, the former Head of Corporate Affairs & Legal for Imperial Tobacco Australia, who has now left the industry. In her job at IT Australia she had "commented numerous times in the media during 2011-2013 about the anticipated impact of plain packaging", claiming for example that "the legislation will make the counterfeiters' job both cheaper and easier by mandating exactly how a pack must look".³⁹ She wrote to the paper that "based on these figures from Australian Customs authorities, there doesn't appear to be any evidence that plain packaging itself has caused an increase in tobacco smuggling." She added: "Imperial Tobacco did expect to see an increase in tobacco smuggling because of plain packaging, but based on the figures from Australian Customs it looks like those predictions were simply wrong."⁴⁰
33. Research in Victoria, Australia found there was no increase in the availability of illicit tobacco in small retail outlets after the implementation of standardised packaging,⁴¹ and despite predictions by the tobacco industry of a marked increase in the sale of counterfeit cigarettes, post-legislation in 2013 only 2.6% of cigarette smokers reported having purchased one or more packets in non-compliant packaging in the past three months.⁴²

Tobacco Consumption in Australia

34. The tobacco industry has also claimed that tobacco consumption in Australia has risen since the introduction of standardised packaging. Again, independent evidence does not support this proposition.
35. In November 2013 a study by the consultancy firm London Economics, funded by Philip Morris, reported that since the introduction of plain packaging in Australia their survey showed no

35 Plain packaging making 'no impact' on Australian smokers, say tobacco chiefs: The Australian 4th March 2014

36 Chantler Review, Notes-of-Australia-based-meetings: see for example exchange with Mark Connell of BAT Australia, page 38pp

37 See p.48 of the Explanatory Memorandum to the Australian Excise Tariff Amendment (Tobacco) Bill 2014 and p.6 of Sir Cyril Chantler's report.

38 Amy Corderoy, "Tobacco industry claims on impact of plain packaging go up in smoke." *Sydney Morning Herald*, 12 March 2014, accessed April 2014

39 Australia cigarette plain packaging law upheld by court: BBC Business News Online, 15 August 2012

40 Sonia Stewart, Unpublished Letter to the *Sydney Morning Herald*, 12 March 2014

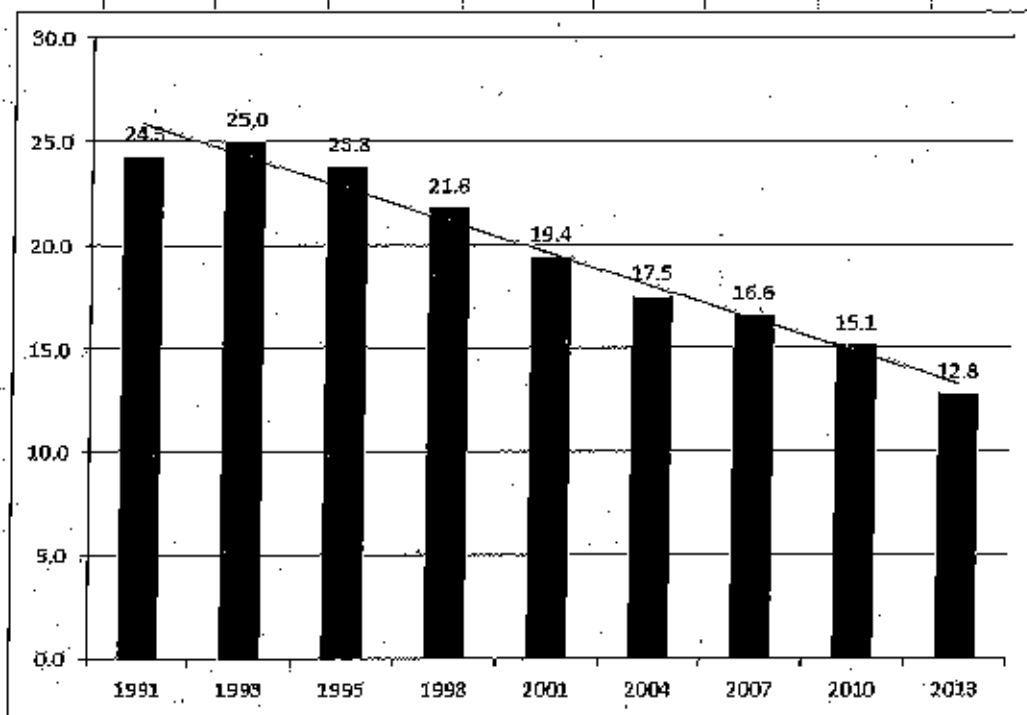
41 Scollo M, Bayly M, Wakefield M. Availability of illicit tobacco in small retail outlets before and after the implementation of Australian packaging legislation. Tobacco Control, published on April 10, 2014 as 10.1136/tobaccocontrol-2013-051353

42 Scollo M, Zacher M, Durkin S, Wakefield M. Early evidence about predicted unintended consequences of standardized packaging of tobacco products in Australia: A cross-sectional study of place of purchase, regular brands and use of illicit tobacco. BMJ Open. In Press

statistically significant change in smoking prevalence. This report has been sharply criticised by, among others, the Cancer Council of Victoria, since:

- The survey was conducted on the mistaken assumption that adult smoking prevalence ought to have markedly declined in the immediate aftermath of the policy's implementation, which was not the assumption underpinning the policy intervention.
- The report used an online survey panel which was not representative of the general population (for example, the panel's smoking prevalence rate was higher than the Australian average).
- The survey had a sample size of 5,000, which is nowhere near big enough to pick up the sort of declines in smoking prevalence expected from one year to the next. To measure a statistically significant decline of, for example half a percentage point, which is the sort of magnitude one might expect to see over a twelve month period, would have required a sample size of around 90,000.

36. The Australian Institute of Health and Welfare (AIHW) National Drug Strategy Household Survey, released online on 17th July, showed that fewer Australians are smoking daily. The daily smoking rate dropped significantly between 2010 and 2013, from 15.1% to 12.8% among people 14 or older. As shown in the graph below this fall was greater than the underlying trend and is evidence that Australia's comprehensive policy approach to tobacco control is working. Importantly, this decline occurred before the large tax increases were introduced and Australian experts therefore suggest it can be attributed to standardised packaging, suggesting it has been effective at reducing smoking prevalence.



Daily smoking adults 14+, National Drug Strategy Household Survey 1991 to 2013

Source: AIHW 2014 <http://www.aihw.gov.au/alcohol-and-other-drugs/ndshs/2013/data-and-references/>

Change in daily smoking since previous survey								
absolute change	0.70	1.20	2.00	2.40	1.90	0.90	1.46	2.34
% change	-2.9%	-4.8%	-8.4%	-11.0%	-9.8%	-5.1%	-8.8%	-15.5%

37. Smokers have also reduced the average number of cigarettes they smoke per week—down from 111 cigarettes in 2010 to 96 cigarettes in 2013. And the results show younger people are delaying starting. The proportion of 12-17 year olds who had never smoked remained high in 2013 at 95%, and the proportion of 18-24 year olds who had never smoked increased significantly between 2010 and 2013 (from 72% to 77%). The age at which 14 to 24-year-olds smoked their first full cigarette was almost 16, rising from 14.2 to 15.9 years of age between 1995 and 2013.
38. The tobacco industry in Australia has reported an increase in tobacco sales from 21.015bn sticks in 2012 to 21.074bn in 2013,⁴³ and the industry and its front groups in the UK have claimed that this showed standardised packaging was not working. Excise tax must be paid before tobacco products are released for home consumption, but may be paid while stock is still in the warehouse. An analysis by Cancer Council Victoria found that it was evident from the 'bump' in industry monthly sales figures that some pre-stocking did occur prior to the large tax increase in December 2013 which would also have tended to increase sales figures in 2013, with retailers likely to have purchased sufficient stock to cover not just December but some weeks after 1st January 2014 as well.⁴⁴ In addition although the industry reported a small (0.28%) increase in sales year on year, they did not report the increase in the Australian population between 2012 and 2013. Adjusted for population, tobacco sales per person by their measure of consumption would in fact have fallen, from 920.4 per person in 2012 to 906.9 in 2013.⁴⁵
39. The Australian Government's Department of Health has released figures showing that total consumption of tobacco and cigarettes in Australia in the first quarter of 2014 was the lowest ever recorded, as measured by estimated expenditure on tobacco products:
- \$5.135 billion in September 1959;
 - \$3.508 billion in December 2012 (when standardised packaging was introduced); and
 - \$3.405 billion in March 2014.
40. This is supported by figures from the Australian Treasury showing that tobacco clearances (including excise and customs duty) fell by 3.4% in 2013 relative to 2012 when tobacco plain packaging was introduced. Clearances are an indicator of tobacco volumes in the Australian market.⁴⁶
41. In June 2014, Professor Ashok Kaul of the University of Saarland and Professor Michael Wolf of the University of Zurich published research funded by Philip Morris International, purporting to show that smoking prevalence had not been reduced in Australia by standardised packaging legislation in the first year since its implementation.⁴⁷ Even if this analysis were correct, it would be largely irrelevant, since the primary purpose of the legislation is to discourage young people from starting to smoke, and thus contribute to reducing smoking prevalence rates over an extended period of time. A one year effect, even if the Kaul and Wolf methodology was adequate, would be unlikely to show up clearly in monthly prevalence data that is affected by a range of factors, including other tobacco control policies, seasonality, and unstable monthly

⁴³ Kerr, C. Labor's plain packaging fails as cigarette sales rise: The Australian, 6 June 2014

⁴⁴ Critique of tobacco industry claims about trends in sales of tobacco products. Cancer Council Victoria.

⁴⁵ Is Smoking Increasing in Australia?: Guardian Datablog. 6 June 2014

⁴⁶ Tobacco facts and figures: Australian Department of Health. 19 June 2014

⁴⁷ The (Possible) Effect of Plain Packaging on Smoking Prevalence in Australia: A Trend Analysis: University of Zurich Department of Economics, Working Paper no 165

estimates (some monthly sample sizes in the survey data set used by Kaul and Wolf are substantially smaller than others).

Other Evidence from Australia

42. JM Young et al, University of New South Wales and Cancer Institute New South Wales, reported in January 2014 that the introduction of standardised packaging in Australia in 2012 was associated with a sharp rise in the number of calls to the New South Wales quitline service.⁴⁸ Statistical modelling to screen out the impact of other factors on the number of calls (such as health advertising campaigns, changes in price, etc) suggested that the number of calls to Quitline NSW rose by 75% from the week before standardised packs were first introduced in the Australian market to four weeks later and a significant increase in calls was sustained over time.
43. A Guillaumier et al, University of Newcastle, Australia, reported in June 2014 that 'following the implementation of plain packaging, perceptions of the quality and taste of cigarettes have changed'. Thematic analysis of six focus groups with 51 participants revealed some participants reporting reductions in product quality. For example, 'I've noticed the reduction in the grading of the tobacco.'⁴⁹
44. M Wakefield et al, Cancer Council Victoria, Annenberg School for Communication Pennsylvania and South Australian Health and Medical Research Institute University of Adelaide, reported in 2013 that smokers in Australia were less willing to display their packs in public and smoke in outdoor areas since plain packaging was introduced. Researchers counted patrons, smokers and tobacco packs at cafes, restaurants and bars with outdoor seating for several months both before and after the introduction of standardised packaging. They found that pack display on tables declined by 15% after plain packaging, which was mostly due to a 23% decline in the percentage of patrons who were observed smoking. The study also found that the declines in pack display and patrons observed smoking were stronger in venues where children were present.⁵⁰
45. Tobacco retailers in the UK have suggested that the introduction of standardised packaging means that it will take longer to serve customers and so convenience stores will lose custom. As the Impact Assessment concludes there is no evidence at all that this is the case from the experience in Australia; indeed transaction times have tended to decline post implementation not increase. Most recently, research published at the end of May, which may not be taken into account in the IA, reported that the claim that plain packaging would negatively impact on small tobacco retailers by making it harder to locate and retrieve cigarette packs, thereby increasing transaction times, has not happened in Australia.^{51 52}

48 Young JM et al. Association between tobacco plain packaging and Quitline calls: a population-based, interrupted time-series analysis Medical Journal of Australia 2014

49 Guillaumier A, Bonevski B, Paul C. Tobacco health warning messages on plain cigarette packs and in television campaigns: a qualitative study with Australian socioeconomically disadvantaged smokers. Health Educ Res. 2014;Vol. PubMed PMID: 24966335. Epub 2014/06/27. Eng.

50 *Addiction*, 109: doi: 10.1111/add.12466

51 Wakefield M, Bayly M, Scollo M. Product retrieval time in small tobacco retail outlets before and after the Australian plain packaging policy: real-world study Tobacco Control 2013 - doi:10.1136/tobaccocontrol-2013-050987.

46. Furthermore, Trans-national Tobacco Companies are fee-paying members of the proponents of these messages: Scottish Grocers Federation,⁵³ Association of Convenience Stores,⁵⁴ National Federation of Retail Newsagents,⁵⁵ and the Federation of Wholesale Distributors.⁵⁶ The Tobacco Retailers Alliance, which has been extremely vocal in its opposition to standardised packaging is a front group of the Tobacco Manufacturers' Association, the transnational tobacco companies' trade association in the UK which is entirely funded by tobacco companies.^{57,58} A series of PMI leaked documents reveal the integral role that such organisations play in opposition to tobacco control regulation.⁵⁹

Other industry arguments in the UK

47. Recent research from the University of Bath examined the relevance and quality of the evidence tobacco companies have cited to support their argument that standardised packaging 'won't work'. This work is consistent with the growing evidence from Australia outlined above which refutes, one by one, the industry's claims that standardised packaging won't work.

48. Research by Hatchard et al. found that tobacco companies cited only 17 research reports directly addressing standardised packaging, of which 14 (82%) were commissioned by or linked to global tobacco companies who have a commercial interest in the policy outcome. Analysis of the independence and publication status of this research showed that its quality is significantly lower than the quality of evidence supporting standardised packaging.⁶⁰ The remainder of tobacco companies' evidence (60 research reports) did not address standardised packaging of tobacco products at all.⁶

49. Ulucanlar et al. examined two submissions and three research reports in great detail to reveal three techniques used by tobacco companies to misrepresent independent studies on standardised packaging:

- (a) Fundamental misrepresentation of studies supportive of standardised packaging, mis-citing them and distorting their main messages;
- (b) Use of a mimicked version of scientific critique to discredit the supportive literature, which featured insistence on methodological perfectionism and uniformity, lack of rigour and use of a litigation model of review;
- (c) Evidential landscaping whereby industry evidence relevant to standardised packaging that would have undermined their case was withheld, while peer-reviewed and independence evidence on other issues (e.g. psycho-social drivers of smoking) was cited, giving the impression of evidential quality.⁵

⁵² Carter, O., Welch, M., Mills, B., Phan, T., Chang, P. *BMJ* 2013; 346:f106. Plain packaging for cigarettes improves retail transaction times. *BMJ* 2013; 346:f106.

⁵³ http://tobaccotactics.org/index.php/Scottish_Grocers%27_Federation

⁵⁴ http://tobaccotactics.org/index.php/Association_of_Convenience_Stores

⁵⁵ http://tobaccotactics.org/index.php/National_Federation_of_Retail_Newsagents

⁵⁶ http://tobaccotactics.org/index.php/Federation_of_Wholesale_Distributors

⁵⁷ http://tobaccotactics.org/index.php/Tobacco_Retailers_Alliance

⁵⁸ http://tobaccotactics.org/index.php/Tobacco_Manufacturers%27_Association

⁵⁹ http://tobaccotactics.org/index.php/PMI%27s_Mobilising_Support_from_Retailers

⁶⁰ Moodie C, Stead, M, Bauld, L, McNeill, A, Angus, K, Hinds, K, Kwan, I, Thomas, J, Hastings, G and O'Mara-Eves. A Plain Tobacco Packaging: A systematic review. Stirling: Public Health Research Consortium; 2012.

50. Overall, the University of Bath found that the low quality of tobacco companies' evidence against standardised packaging and its highly misleading critique of the evidence in favour of standardised packaging suggest that their proposition that there is inadequate evidence that standardised packaging will lead to public health benefits is largely without foundation.

Consultation Question 3: Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations, as drafted?

51. ASH Wales welcomes the draft regulations, which we consider, with only minor changes, to be fit for purpose. The changes we recommend are set out below.

Exemption for tobacco products other than cigarettes and hand-rolling tobacco

52. The regulations should also apply to specialist tobacco products including cigars and cigarillos. While we note the explanation for their exclusion is their low rate of use by young people, we consider that it sets an unhelpful example if any smoked tobacco products are excluded from the regulations, since this might be interpreted as endorsement of the idea that they are in some way less harmful to health.

Regulation 4(7) with respect to pack size

53. This regulation while prohibiting packs containing less than 20 cigarettes allows manufacturers to compete on number by including more than 20 cigarettes. In Australia this has been a tactic used by the industry and extra cigarettes have been introduced into some brands for the same price as a promotional tool. Such extra free cigarettes are known colloquially as "loosies" and Imperial Tobacco has gone further and registered a brand name called "Peter Stuyvesant + Loosie" and made 21 cigarettes to a pack.
54. One way of preventing this would be by mandating that packs 'must contain 20 cigarettes' to prohibit additional cigarettes being included as a promotional tool.

Regulation 10 with respect to misleading brand names, variants and descriptors

55. Brand names, brand variant names and brand descriptors will become a more important element of tobacco product promotion once standardised packaging is introduced.
56. Recital (27) of the TPD specifically covers this issue:

"Tobacco products or their packaging could mislead consumers, in particular young people, where they suggest that these products are less harmful. This is, for example, the case if certain words or features are used, such as the words 'low-tar', 'light', 'ultra-light', 'mild', 'natural', 'organic', 'without additives', 'without flavours' or 'slim', or certain names, pictures, and figurative or other signs. Other misleading elements might include, but are not limited to, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. Certain packaging and tobacco products could also mislead consumers by suggesting benefits in terms of weight loss, sex-appeal, social status,

social life or qualities such as femininity, masculinity or elegance. Likewise, the size and appearance of individual cigarettes could mislead consumers by creating the impression that they are less harmful. Neither the unit packets of tobacco products nor their outside packaging should include printed vouchers, discount offers, reference to free distribution, two-for-one or other similar offers that could suggest economic advantages to consumers thereby inciting them to buy those tobacco products."

57. There is good evidence for example that female-oriented brand descriptors such as "slims" target beliefs about smoking behaviour among young women, and these beliefs are an important predictor of smoking behaviour in this group.^{61 62 63}
58. However, the list in Recital (27) is not comprehensive and there is evidence that many other words are also misleading. For example:
- (a) Smooth - population based studies have found that adult smokers perceive 'smooth' as a synonym for 'light'.⁶⁴ A UK study found that over half of young people, including non-smokers as young as 12, believed that a cigarette brand labelled as 'smooth' would be less harmful.⁶⁵
 - (b) Colour names - such as gold or silver⁶⁵ - materials provided by Philip Morris to retailers indicated that the names 'gold' and 'silver' have been used to replace 'light' and 'ultralight' and 'blue' has been used to replace 'mild'.⁶⁶ Prohibiting the use of such colours is not sufficient, if the colour name is allowed to stay then the association will remain. Smokers will continue to believe, erroneously, that products labelled 'gold' and 'silver' are less harmful, even if all products are the same standardised colour.
 - (c) Numbers - as many as 80% of Canadian smokers shown packages with different numbers in the name reported that the brand with the lower number delivered less tar and could lower the risk.⁶⁷ And a study in the US found that almost 90% of participants reported that a brand with the number '6' in the name would have lower risk than an otherwise identical pack but with the number '10' instead.⁶⁸

⁶¹ U.S. Surgeon General. Factors influencing tobacco use among women. In: Surgeon General's Report: Women and Smoking 2001: pp.453-536.

⁶² Hammond D, Doxey J. Deadly in pink: the impact of cigarette packaging among young women. *Tob Control* 2011; 20: 353-360 doi:10.1136/tc.2010.038315

⁶³ Carpenter CM, Wayne GF, Connolly GN. Designing cigarettes for women: New findings from the tobacco industry documents. *Addiction* 2005; 100:837-851.

⁶⁴ King B, Borland R. What was "light" and "mild" is now "smooth" and "fine": new labelling of Australian cigarettes. *Tobacco Control* 2005;14(3):214-5.

⁶⁵ Hammond D, Dockrell M, Arnott D et al. Cigarette pack design and perceptions of risk among UK adults and youth. *European Journal of Public Health* 2009; 19:631-7.

⁶⁶ Hammond, D. Use of Tobacco Marketing Descriptors to Convey Modified Risk. Submission to the US Food and Drug Administration. 2010.

⁶⁷ Hammond D, Parkinson C. The impact of cigarette package design on perceptions of risk. *Journal of Public Health* 2009; 31(3):345-53.

⁶⁸ Bansal-Travers M, Hammond D, Smith P, Cummings KM. The Impact of Cigarette Pack Design, Descriptors, and Warning Labels on Risk Perception in the U.S. *AJPM* 2011; 40(6): 674-82.

59. A requirement to prohibit misleading words or features is set out in Article 13 of the TPD, and is contained within Regulation 10 of the draft regulations on standardised packaging. Regulation 10 does not, however, specify which brand names and variants are prohibited.
60. It is essential that the measures required to ensure that specific brand names and variants which are found to be misleading can be prohibited, including, but not limited to, those set out in recital (27), are transposed into UK legislation. Furthermore the responsibility should rest with the industry to demonstrate that any brand names, variants or descriptors are not misleading before they can be put on sale in the UK.

Review process

61. In Australia in the build up to the legislation tobacco companies engaged in strategies of reassuring customers, re-energising the names of brands, and expanding product ranges to provide extra value for money and retain consumer interest, e.g. menthol capsule cigarettes, packaging re-design, adding bonus cigarettes to packets, changing names so that they are longer and take up more room on plain packets.⁶⁹ The Government should monitor such activity and where appropriate review and revise the regulations.

Consultation Question 4: Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage Impact assessment?

Illicit trade and cross border shopping

62. For the reasons stated in answer to Q.2 above we do not think the evidence justifies inclusion in "other key non-monetised costs" of "possible losses from a potential increase in consumption of illicit product and/or product legitimately bought outside the UK".
63. The UK previously introduced a major change in packaging and labelling in advance of the rest of Europe by introducing coloured picture warnings on packs from 1 October 2008. As shown in table 8 of the IA this did not lead to an increase in cross border shopping. Indeed both cross border shopping and illicit trade declined over the period between introduction and full implementation from October 2008 to September 2010. As the IA acknowledges this is because the greatest influence on cross border shopping is down to external factors such as the £/€ exchange rate and the number of passenger journeys and therefore, just as with graphic warnings, standardised packaging is unlikely to have a significant impact.

Impact on Retailers

64. Tobacco sales are undergoing long-term decline. At its peak in the 1950s adult male smoking prevalence was 80%.⁷⁰ Female smoking prevalence continued to rise and reached a peak of 45% in the mid-1960s.⁷⁰ Since then smoking prevalence amongst both men and women has declined significantly and is now under 20%. Government policy is designed to sustain and increase this trend.

⁶⁹ Scolto, M. Occleston, J. Bayly, M. Lindorff, K. Wakefield, M. Tobacco product developments coinciding with the implementation of plain packaging in Australia. Tobacco product developments coinciding with the implementation of plain packaging in Australia. Tob Control, 2014.

⁷⁰ Wald, N. & Nicolaides-Bouman, A. UK Smoking Statistics (2d ed.). OUP, 1991.

**HM Revenue and Customs
Tobacco Bulletin - November 2013**



6 Historic Clearances

Financial Year	Cigarettes million sticks			Other Tobacco Products 000 kg			Total
	Home Produced	Imported	Cigarettes Total	Cigars	HRT	Other	
1991/92	83,362	10,134	93,496	2,107	4,058	2,081	6,247
1992/93	83,939	10,141	94,080	1,955	3,822	2,027	7,805
1993/94	67,228	7,265	74,514	1,724	3,181	1,785	6,670
1994/95	75,442	9,735	85,177	1,679	3,039	1,585	6,280
1995/96	71,769	9,059	80,828	1,501	2,558	1,347	5,405
1996/97	71,848	9,500	81,348	1,453	2,204	1,221	4,877
1997/98	79,976	11,707	91,683	1,548	1,948	1,148	4,644
1998/99	54,739	5,837	60,576	1,084	1,736	819	3,738
1999/00	64,443	10,486	74,929	1,369	2,194	890	4,553
2000/01	26,686	5,273	31,959	970	2,343	704	4,018
2001/02	45,581	5,691	51,272	816	2,748	832	4,194
2002/03	48,806	6,131	54,937	862	2,806	850	4,424
2003/04	52,297	4,812	57,109	985	3,215	626	4,827
2004/05	47,224	4,444	51,668	778	3,044	522	4,344
2005/06	47,539	4,811	52,350	744	3,409	494	4,647
2006/07	41,754	4,007	45,760	645	3,388	416	4,449
2007/08	42,258	3,882	46,140	609	3,741	388	4,697
2008/09	39,739	3,441	43,180	504	4,076	363	4,943
2009/10	44,839	4,258	49,097	555	5,840	415	6,611
2010/11	42,335	3,343	45,678	468	5,431	359	6,256
2011/12	39,629	2,884	42,513	458	6,236	393	7,025
2012/13	35,202	2,730	37,932	421	6,215	301	6,937

65. More recent data from HMRC tobacco clearances (see above) shows the impact this has had on sales volume with the number of million cigarette sticks cleared for UK sales falling from 94,080 million in 1992/3 to 54,737 million in 2002/3 to 37,932 million in 2012/13, a decline of 30% in the last ten years. (see table above from the HMRC Tobacco Factsheet November 2013). Small retailers have had to adjust to this decline and will continue to have to do so. It is important to note that any impact of standardised packaging will be marginal compared to the overall secular trend.

66. HMRC clearance data also shows the importance of the government's anti-smuggling strategy in supporting retailers. The impact is clearest with respect to handrolled tobacco. At its peak the illicit market share of handrolled tobacco was estimated to be over 60%; most recent estimates by HMRC suggest that it has fallen to 36%. This is matched by a growth in the amount of taxed HRT released for consumption which rose 2.8 million kilograms in 2002/3 to 6.2 million kilograms in 2012/13.

67. The impact of underlying trends in sales for independent retailers need to be taken into account too, particularly given the rise of small outlets set up by large retailers in the UK. An economic analysis of the impact of point of sale display legislation in Ireland using AC Nielsen data concluded that no statistically significant change in cigarette pack sales was observed following implementation of the legislation over and above seasonal and underlying trends, and that small and independent retailers are facing a broader and longer-term decline in sales generally which is most likely due to other causes. We would expect to see the same pattern occurring in the UK

both as a result of the implementation of point of sale display legislation and standardised packaging, and recommend to DH that such data should be gathered for the UK as part of the evaluation of the impact of the legislation. In contrast to tobacco industry predictions in Australia there is no evidence to suggest that smokers have defected from smaller to larger stores to make their tobacco purchases in the wake of standardised packaging legislation.⁷¹

68. The Impact Assessment page 28 p.112 states 'anecdotally the (retail) profit margins on the sale of tobacco may be relatively low.' This is corroborated by information provided to ASH by a retailer in Gateshead, John McClurey, a member of the ASH advisory council. According to John McClurey profit margins on cigarettes average around 4.5% compared to profits on other products on sale in his shop which average around 22%. This means that while tobacco currently amounts to around 50% of his sales turnover it is a much smaller proportion of his profits. In fact he estimates that currently tobacco sales only amount to about 20% of his profits with 80% of his profits coming from sale of non-tobacco products. To illustrate the point John McClurey has told us that if a customer buys a packet of chewing gum he makes around 17 pence in profit compared to 14 pence on a price-marked packet of 10 John Player Special. Plus a price-marked pack of 10 JPS cigarettes costs £3.50, while a packet of chewing gum only costs 50 pence, so the customer buying chewing gum as opposed to cigarettes has £3 left over available to spend on other items.
69. For a shop where tobacco only accounts for 20% of turnover, which is the average estimated in the ACS report referenced in the IA, the proportion of profits would be even smaller at around 5% for tobacco compared to 95% for non-tobacco products.
70. Comprehensive data on prices and profit margins is available from wholesalers such as Bookers who can be contacted via their website <https://www.booker.co.uk/help/contactus.aspx>. Data on the proportion of tobacco sales accounted for by different types of outlet is available from AC Nielsen which can also provide data on the trends in sales of tobacco between different types of retailers over time. We recommend that the DH get in touch with Bookers and AC Nielsen for more information.

Conclusions

71. Standardised packaging is backed by the Smokefree Action Coalition, which is an alliance supported by over 250 organisations from across the UK including medical Royal Colleges and other medical organisations, health and children's charities, the Chartered Institute of Environmental Health, the Trading Standards Institute and others.⁷² It is also supported by the Wales Tobacco Control Alliance, which brings together 34 organisations from around Wales working on issues of tobacco control. The consensus of medical professionals, public health and other relevant experts is that it would make an important positive contribution to reducing the harm caused by tobacco consumption.
72. Standardised packaging is also popular with the public. A poll on the issue by YouGov, conducted for ASH Wales and partners in March 2014, found that overall 66% of adults in Wales were in favour of standardised packaging. There was majority support across age groups, genders and

⁷¹ Scollo, M., Zacher, M., Durkin, S. Wakefield, M. Early evidence about predicted unintended consequences of standardized packaging of tobacco products in Australia: A cross-sectional study of place of purchase, regular brands and use of illicit tobacco. *BMJ Open*. In Press

⁷² [Smokefree Action Coalition](#)

social classes.⁷³ It is clear that most people believe that this policy, combined with other tobacco control initiatives, is an important way to prevent the next generation of young people from starting to smoke.

73. Section 94 of the Children and Families Act 2014 was passed overwhelmingly in both the House of Lords (nem con) and House of Commons (24 MPs voted against), following a strong cross-Party campaign in support of the policy. It therefore demonstrably has majority support in Parliament. The amendment to the Children and Families Bill during its passage through Westminster on the regulation of retail packaging of tobacco products initiated a Legislative Consent Motion in the National Assembly for Wales. The purpose of the LCM was to allow regulations for England to also apply in Wales. The Motion received widespread cross-party support, with 50 Assembly Members voting in favour, with only 1 voting against and 3 abstaining⁷⁴.
74. Opposition to standardised packaging has been driven and financed by the tobacco industry which requires young people to start smoking in large numbers every year as its previous consumers quit or die prematurely from smoking-related disease.⁷⁵ Furthermore, the claims that the tobacco industry and those it funds have made to oppose the legislation have now comprehensively been shown to be highly misleading and its data highly inaccurate.
75. Following the six week consultation on the draft regulations, the Government will then have to notify the European Union of the draft Regulations, under the Technical Standards and Regulations Directive 98/34/EC. This process can take up to six months.⁷⁶ Therefore, time is now short if Parliament is to get the opportunity to vote on the Regulations before the General Election. If this opportunity were now to be missed, it would be widely understood as a public health disaster and as suggesting that the tobacco industry still has excessive influence at the heart of Government.

73 The poll total sample size was 1,093 adults. Fieldwork was undertaken by YouGov between 5th and 14th March 2014. The survey was carried out online. The figures have been weighted and are representative of all Welsh adults (aged 18+). Respondents were shown what a standard pack could look like, including larger health warnings as in Australia.

⁷⁴ http://www.assemblywales.org/docs/rop_xml/140121_Plenary_Votes.xml#195_0007_000_182649

⁷⁵ The pro-smoking group FONEST, which receives virtually all its funding from the tobacco industry, have hired the marketing agency Kreate to collect "digital signatures" for the "Hands off Our Packs" petition to the Prime Minister. Kreate describes itself as "an experiential agency that specialises in the delivery and staffing of face-to-face experiences". Agencies have also been commissioned directly by BAT to run a six week, "anti-plain packs roadshow", aiming to sign up 100,000 people to oppose plain packs. The company is reported to have allocated £500,000 to the activity. Over 100 people a day will be working on this campaign. ASH recommends that consultation responses generated in this way should be regarded by the Government as constituting a single response on behalf of the tobacco industry.

EL113

[REDACTED]

[REDACTED]

Sent: 04 August 2014 15:18
To: Tobacco Packaging
Subject: consultation on standardised packaging for tobacco products
Attachments: Consultation standardised packaging of tobacco products.pdf; Response_Form.doc

Please find attached the completed response from Kent Public Health regarding the consultation on standardised packaging for tobacco products.
I also attach the pdf paper which provides the same response to your questions but has an additional foreword and concluding comments signed by the Kent Cabinet Member for Public Health and Kent Director of Public Health.

If you require any further information, please do not hesitate to contact me.

Regards

[REDACTED]

[REDACTED] | Public Health | Kent County Council | Room 3.45, Sessions
House, County Road, Maidstone Kent ME14 1X [REDACTED] | External: 0300 333 5848 | Mobile:
07850210919 | www.kent.gov.uk

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Department of
Health, Social Services
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Consultation on the introduction of regulations for standardised packaging of tobacco products – Response Form

a. Are you responding (required):

- As a member of the public (go to question b)
- As a health or social care professional (go to question b)
- On behalf of a business or as a sole trader (go to question c)
- On behalf of an organisation (go to question c)

b. Please provide your details and contact information:

Name of respondent (required)

Address of respondent (required):

Contact email address (required):

Now go to question f

c. Please provide your organisation's details and contact information:

Name of organisation (required):

Kent County Council Public Health

Name of person providing submission (required):

[REDACTED]

Job Title (required):

Public Health Specialist

Contact address of organisation (required):

Sessions House, County Hall, Maidstone Kent ME14 1XQ

Contact email address (required):

[REDACTED]

Is this the official response of your organisation? (required):

Yes

No

d. If you are responding on behalf of a business, what type is it?

Tobacco retailer (supermarket)

Tobacco retailer (convenience store)

Tobacco retailer (other type of shop or business)

Specialist tobacconist

Duty free shop

- Wholesale tobacco seller
- Tobacco manufacturer
- Retailer not selling tobacco products
- Pharmaceutical industry
- Business involved in the design or manufacture of packaging
- Other (please provide details below)

If other, please tell us the type of business:

e. If you are responding on behalf of an organisation, what type is it?

- NHS organisation
- Health charity/NGO (working at national level)
- Local Authority
- Local Authority Trading Standards or Regulatory Services Department
- Local tobacco control alliance
- Retail representative organisation
- Industry representative organisation
- Other type of business representative organisation
- University or research organisation
- Other (please provide details below)

If other, please tell us the type of organisation:

f. Does your response relate to (required):

United Kingdom

England only

Scotland only

Wales only

Northern Ireland only

g. Do you, or the business or organisation you represent, have any direct or indirect links to, or receive funding from the tobacco industry? (required)

No

Yes (please describe below)

If yes, please describe:

h. If you do not wish your details to be identified in the summary report of consultation responses, please tick this box

Consultation questions

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

1.1 We accept Sir Cyril Chantler's view that it cannot be proved conclusively that a single intervention such as standardised packaging of tobacco products will reduce smoking prevalence but we do consider it a vital intervention that will contribute to a wide range of initiatives needed to reduce smoking prevalence.

1.2 We concur that in the absence of random control trials on the effectiveness of standardised packaging of tobacco control products is insufficient reason to abstain. In fact, there are a number of systematic reviews and surveys providing valuable insights on perceptions of cigarette packaging that are detailed under question 2 of this response.

1.3 We also welcome the proposal for the Secretary of State's review of the regulations (Section 13 of the draft regulations) which can evaluate the progress and outcomes of these regulations and would hope that further studies and evidence will be available to support the review.

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

2.1 Public Health England's Submission to the Independent Review into Standardised Packaging of Tobacco in January 2014 provides evidence that since 2003, there has been a decline in 11-15 year olds smoking which coincides with the same period of advertising bans and restriction of sponsorship by tobacco companies (source: Health and Social Care Information Centre). We should build on this platform of regulation but also need to do more, as the prevalence of young people smoking is still too high.

2.2 Standardised packaging can be particularly effective among young people who are likely to be the next generation of smokers. The Public Health England's report presents evidence from systematic reviews from Australia, New Zealand and UK, reporting that young people's perception of plain packaged cigarettes are that they appear cheap, ugly and embarrassing.

2.3 The report also comments on a survey conducted by Public Health England asking 844 11-19 year olds in Hackney, London, whether they would use plain packaging with pictures of the impact of smoking on health. 43% of smokers who responded said they would not buy them. A follow up survey of 469 residents three

months later in the same borough and of the same age group revealed that 66% of respondents would not buy packet cigarettes with the same imaging
In addition, Public Health England cites the key outcomes of the 2012 systematic review on Plain Tobacco Packaging conducted by the Collaboration for Public Health Research. The main findings of this research suggests that plain packs:

- Are considered less attractive than branded packs
- Are considered to be poorer quality (based on perceptions)
- Are considered less popular and less fashionable than branded packs
- Weaken attachment to brands
- Are more likely to draw attention, seriousness and believability of health warnings
- Cigarettes are perceived to be more harmful than branded packs if in a darker colour
- Are potentially more likely to impact on young people's likelihood to consider quitting (according to four studies in Glasgow)
- Are more generally likely to impact upon non and lighter smokers than heavier smokers, particularly among young people

'The review concluded: "There is strong evidence to support the propositions set out in the Framework Convention on Tobacco Control relating to the role of plain packaging in helping to reduce smoking rates; that is, that plain packaging would reduce the attractiveness and appeal of tobacco products, it would increase the noticeability and effectiveness of health warnings and messages, and it would reduce the use of design techniques that may mislead consumers about the harmfulness of tobacco products. In addition, the studies in this review show that plain packaging is perceived by both smokers and non-smokers to reduce initiation among non-smokers and cessation-related behaviours among smokers."

2.4 In January 2014, a survey conducted among Directors of Public Health resulted in overwhelming agreement (100% of respondents) that standardised packaging can impact to discourage children and young people from taking up smoking and encourage smokers to quit. 94% of respondents considered that the regulations would have a positive impact on reducing inequalities in relation to children and young people, deprived communities, people with mental health needs, long term conditions and respiratory illnesses.

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

3.1 Kent agrees with Action on Smoking and Health (ASH) in its welcome to the draft regulations and agrees that these should also include cigars, cigarettos and pipe tobacco. Despite the current low usage of these products among young people,

excluding any tobacco products can be perceived as endorsement of the product and can lead to the marketing of these products to young people. Kent would expect the regulations to be consistent in their approach to standardising packaging for all tobacco products.

3.2 Kent also agrees with the recommendation that the UK prohibits the use of misleading brand variant names, which are devised to circumnavigate the proposed standardised packaging policy.

3.3 In our view, the suggestions made by the tobacco industry that standardised packaging would increase the level of illicit trade are unfounded. In their response to this consultation ASH have demonstrated that the illicit trade has not increased since the introduction of standardised packaging in Australia. In his review, Chantler also states that he is not convinced that standardised packaging would bring about an increase in the illicit market.

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

4.1 We agree with ASH's claim that standardised packaging is also popular with the public. ASH states:

"A poll on the issue by YouGov, conducted by ASH in March 2014 found that overall 64% of adults in Great Britain were in favour of standardised packaging with only 11% opposed. There was a majority support across age groups, genders and social class. It is clear that most people believe that this policy, combined with other tobacco control initiatives, is an important way to prevent the next generation of young people from starting to smoke". As the responsibility of public health now rests with local authorities, we must be seen to serve the majority 64% of the public who are in favour of this regulation by supporting and advocating for its implementation prior to the national elections.

Thank you for participating in this consultation.

The Department of Health and Devolved Administrations will only contact you should we seek further information about your response.

How to get involved in the consultation

The consultation will run for 6 weeks, from 26/06/14 to 07/08/14. Responses are invited from any interested group, company or person.

Respondents are encouraged to provide their views online, but responses can be made in any of the following ways:

Completing the online form on the Department of Health website at:

[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

[1](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

- **Filling In the response form by downloading it at:**

<https://www.gov.uk/government/consultations>

- **Emailing your response to:**

TobaccoPackaging@dh.gsi.gov.uk

- **Posting your response to**

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB

Consultation on the introduction of regulations for standardised packaging of tobacco products

Response led by Kent Public Health

Introduction

This response to the consultation on the introduction of regulations for standardised packaging of tobacco products has been prepared by the Kent Tobacco Control Stakeholder Group. This group is chaired by Kent's Director of Public Health and is supported by local district authorities in Kent, Trading Standards, providers of NHS Stop Smoking Services, representatives of Clinical Commissioning Groups and Clinical Respiratory leads. This response is also endorsed by the Kent County Council Cabinet Member for Social Care and Public Health. Together we are committed to driving down the smoking prevalence and the harmful effects that tobacco has upon the people of Kent. We can only achieve this by:

- Reducing the take up of smoking – in particular, targeting young people (90% of smokers start before the age of 19)
- Helping smokers to quit
- De-normalise smoking – making homes, cars and family spaces smoke free and making smoking 'uncool' and unappealing to children and young people (who are likely to be the next generation of smokers).

The Kent Health and Wellbeing Board partners acknowledge their responsibility to improve public health and reduce health inequalities across the county by supporting interventions that can contribute to these outcomes, including the implementation of comprehensive tobacco control strategies such as standardised packaging of tobacco products.

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

1.1 We accept Sir Cyril Chantler's view that it cannot be proved conclusively that a single intervention such as standardised packaging of tobacco products will reduce smoking prevalence but we do consider it a vital intervention that will contribute to a wide range of initiatives needed to reduce smoking prevalence.

1.2 We concur that in the absence of random control trials on the effectiveness of standardised packaging of tobacco control products is insufficient reason to abstain. In fact, there are a number of systematic reviews and surveys providing valuable insights on perceptions of cigarette packaging that are detailed under question 2 of this response.

1.3 We also welcome the proposal for the Secretary of State's review of the regulations (Section 13 of the draft regulations) which can evaluate the progress and outcomes of these regulations and would hope that further studies and evidence will be available to support the review.

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging, that you wish to bring to our attention?

2.1 Public Health England's Submission to the Independent Review into Standardised Packaging of Tobacco in January 2014¹ provides evidence that since 2003, there has been a decline in 11-15 year olds smoking which coincides with the same period of advertising bans and restriction of sponsorship by tobacco companies (source: Health and Social Care Information Centre). We should build on this platform of regulation but also need to do more, as the prevalence of young people smoking is still too high.

2.2 Standardised packaging can be particularly effective among young people who are likely to be the next generation of smokers. The Public Health

¹ Public Health England, Submission to the Independent Review into Standardised Packaging of Tobacco, January 2014, page 9

[REDACTED]

Sent: 04 August 2014 15:50
To: Tobacco Packaging
Subject: Standardised Tobacco Packaging

Dear Sir/Madam,

I am writing to you with regard to this latest proposal to introduce standardised packaging for tobacco products. Whilst I agree that people should be made fully aware of the dangers of smoking, I do not agree with standardised packaging, as I believe it will not have the effect that you are looking for and could have unintended consequences. There is no credible or new evidence that it will achieve a reduction in smoking and in deed if you look at the effect that this action has had in Australia, it should give you an indication of the result that you may expect in the UK i.e. smoking prevalence has not decrease, whilst illicit trade has increased by 20% since its introduction.

When I last looked tobacco was a legal product in this country and I find difficult to understand how tobacco companies have to jump through hoops to sell their legal products. No displays, no advertising, no sponsorship and taxes that are eye-watering to their consumers. Cost of smoking to the UK somewhere in the region of 5bn, mainly to the NHS and includes their spend on trying to stop people smoking. Sound pretty damning until you look at the cost to the UK attributed to another legal substance, alcohol, which appears to be in excess of 6bn, which is not just to the NHS but violent crime, alcohol related accidents and cost to industry caused by alcohol related sickness. Then look at the stats for NHS A&E departments which read something like 70% of early morning attendances and 40% of weekend attendances are alcohol related, whilst 1 in 16 admissions are also alcohol related. Which begs the question why are we not treating alcoholic products with the same restriction as tobacco or is it that there are just more drinkers than smokers and therefore they are an easier target? And of course no one wants to even consider the cost to the UK caused by drug abuse, which of course is totally illegal and earns the UK no tax revenue. Oh! Has no advertising, no displays, no sponsorship and I believe is not sold in any sort of packaging and users have to find a seller but according to the latest figures I could find on the web, cost the UK somewhere in the region of 18.8bn. Are we missing the point?

Surely the answer to all these problems is proper education of kids at school, not telling them they can't but giving them the fact about why they shouldn't and the dangers and damage it can cause if they do.

Your faithfully

[REDACTED]

If you have received this email in error please email:

[REDACTED]

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DH users see Computer virus guidance on Delphi under Security in DH, for further details. In case of problems, please call the IT support helpdesk.

EL 115

[REDACTED]

[REDACTED]

Sent: 04 August 2014 15:57
To: Tobacco Packaging
Subject: Tobacco Packaging

I cannot believe that Standardised Packaging could reduce tobacco consumption. Some time ago when it was first proposed I asked many people, smokers and non smokers.

A lot laughed and a lot said "They'll lose my vote if they do" Mine too.

I am disabled and spend much time looking out at the road below my window and I see many

smokers walking by, some throwing their "Dog End " into the bushes.

One brand tastes much the same as any other anyhow and the only advantage I can see is

that the manufacturers would save money by a bland packaging against colourful ones, and

it creates an open invitation to smuggling.

Next will be Bland Bottling for Alcohol. All bottles one shape etc. Nanny dear, it's ludicrous !!!!!

Government (MY) money wasted again. Sincerely you [REDACTED]

This email was received from the Internet and scanned by the Government Secure Intranet anti-virus service supplied by Vodafone in partnership with Symantec.

DH users see Computer virus guidance on Delphi under Security in DH, for further details. In case of problems, please call the IT support helpdesk.



Department of Health



Llywodraeth Cymru
Welsh Government



The Scottish Government
Riaghaidh na h-Alba



Department of
Health, Social Services
and Public Safety
www.dhsspsni.gov.uk

Consultation on the introduction of regulations for standardised packaging of tobacco products – Response Form

a. Are you responding (required):

- As a member of the public (go to question b)
- As a health or social care professional (go to question b)
- On behalf of a business or as a sole trader (go to question c)
- On behalf of an organisation (go to question c)

b. Please provide your details and contact information:

Name of respondent (required)

Address of respondent (required):

Contact email address (required):

Now go to question f

c. Please provide your organisation's details and contact information:

Name of organisation (required):

Name of person providing submission (required):

Job Title (required):

Contact address of organisation (required):

Contact email address (required):

Is this the official response of your organisation? (required):

Yes

No

d. If you are responding on behalf of a business, what type is it?

Tobacco retailer (supermarket)

Tobacco retailer (convenience store)

Tobacco retailer (other type of shop or business)

Specialist tobacconist

Duty free shop

- Wholesale tobacco seller
- Tobacco manufacturer
- Retailer not selling tobacco products
- Pharmaceutical industry
- Business involved in the design or manufacture of packaging
- Other (please provide details below)

If other, please tell us the type of business:

e. **If you are responding on behalf of an organisation, what type is it?**

- NHS organisation
- Health charity/NGO (working at national level)
- Local Authority
- Local Authority Trading Standards or Regulatory Services Department
- Local tobacco control alliance
- Retail representative organisation
- Industry representative organisation
- Other type of business representative organisation
- University or research organisation
- Other (please provide details below)

If other, please tell us the type of organisation:

Medical Royal College

f. Does your response relate to (required):

United Kingdom

England only

Scotland only

Wales only

Northern Ireland only

g. Do you, or the business or organisation you represent, have any direct or indirect links to, or receive funding from the tobacco industry? (required)

No

Yes (please describe below)

If yes, please describe:

h. If you do not wish your details to be identified in the summary report of consultation responses, please tick this box

Consultation questions

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

The Royal College of Physicians of Edinburgh ("the College") has Fellows and Members across the UK and overseas, with 50% of our UK fellows and members working in the NHS in England, and is pleased to respond to the call for comments on the introduction of regulations for standardised packaging of tobacco products.

Our Members and Fellows are responsible for the diagnosis and treatment of most of the diseases caused by smoking, including heart disease; chronic obstructive pulmonary disease; cancer of the lung and many other organs. We are all too well aware that half of all regular smokers will die prematurely of such diseases and that smoking is commonly initiated in childhood and proves to be addictive. The College is committed to support initiatives which will reduce the uptake of tobacco smoking, particularly in the young.

We regard the Chantler Review as an excellent summary of the problem and available evidence. Our only concern is that representatives of the Tobacco Industry were involved in the Review, which is not in accord with the World Health Organisation Article 5.3 of the Framework Convention on Tobacco Control, to which the UK is a signatory, which stated that the Tobacco Industry should have no place in influencing public health policy. Over the last 50 years the tobacco industry has a poor record of denying the scientific evidence of harm from tobacco smoking, and opposing many measures designed to improve public health.

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

The Royal College of Physicians of Edinburgh is a member of the Scottish Coalition on Tobacco (SCOT) which is responding to this consultation, and which has undertaken a detailed review of the latest evidence emerging recently from Australia, showing that many of the objections to standardized packaging from the tobacco industry are ill-founded. There is no evidence of a lasting impact on serving times in small retailers, the packs are less attractive to smokers, and give rise to increasing calls to phone lines providing quitting advice. There is no evidence of increased smuggling of tobacco, and yet early evidence of a decline of tobacco consumption, more marked among teenagers. We shall not reiterate here the detailed evidence from the SCOT response.

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

We support the draft regulations, but regret that they do not fully prevent future promotional activity of this lethal material by not regulating all forms of tobacco products, not just cigarettes and hand-rolling tobacco, nor do they prevent other promotional gimmicks such as different shapes, sizes and pack sizes of cigarettes and tobacco. We support the suggestion that all packs should contain 20 cigarettes and be the same size. The industry are adept at devising new forms of their products, and making them appealing to specific groups such as young people.

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

We do not believe that there is any evidence to support the view that illicit tobacco use will increase as a result of the introduction of standardized packaging, and this is being confirmed by emerging evidence from Australia.

The Royal College of Physicians of Edinburgh is fully aware of the continuing and appalling health consequences of tobacco use resulting in ill-health, immense suffering, and premature death. The College is also all too aware of the magnitude of the problem. Tobacco products can no longer be regarded as normal consumer products – they have no beneficial effects, apart from giving relief to those with already established nicotine addiction, and cause major ill-health and death. We must undertake all measures to reduce the numbers of young people attracted to the use of tobacco, and we believe that standardized packaging would be a significant step in reducing the appeal of tobacco products to children and young people.

Thank you for participating in this consultation.

The Department of Health and Devolved Administrations will only contact you should we seek further information about your response:

How to get involved in the consultation

The consultation will run for 6 weeks, from 26/06/14 to 07/08/14. Responses are invited from any interested group, company or person.

Respondents are encouraged to provide their views online, but responses can be made in any of the following ways:

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[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

[1](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

- **Filling in the response form by downloading it at:**

<https://www.gov.uk/government/consultations>

- **Emailing your response to:**

TobaccoPackaging@dh.gsi.gov.uk

- **Posting your response to**

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB

EL117

**CONSULTATION ON THE INTRODUCTION OF REGULATIONS FOR THE
STANDARDISED PACKAGING OF TOBACCO PRODUCTS**

AITS CONSULTATION SUBMISSION

AITS (THE ASSOCIATION OF INDEPENDENT TOBACCO SPECIALISTS)

AITS is a trade association representing approximately 80 small independent retail shops in the UK and a number of these members are Specialist Tobacconists (TAPA2002). A list of members has previously been submitted. The association is funded by annual subscriptions from its members.

The name and address of the respondent is:

[REDACTED] AITS, c/o Connoisseur Limited, Friars Farm Cottage, Morningthorpe, Norfolk NR15
2QL
[REDACTED]
[REDACTED]

RESPONSES TO CONSULTATION QUESTIONS

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

The Chantler Review does not take into account evidence from Australia who introduced Standardised Packaging on 1st December 2012. The Australian Government has said they will review the introduction of Standardised Packaging at the end of 2014. The two years being reviewed since the introduction of Standardised Packaging, will have given sufficient time to enable reliable evidence to come to a conclusion on the effects of this legislation. The Chantler Review was completed in three months and does not take into account the results from Australia. Surely it would be sensible to see the results of the review in Australia before proceeding with Standardised Packaging.

The Chantler Review did not look at any evidence on specialist tobacco products (cigars and pipe tobacco) so specialist tobacco products should not be included in the draft regulations. There is no evidence in the Chantler Review to convince us that Standardised Packaging will have the impact intended by the legislation. As a result of these points AITS cannot support the conclusions of the Chantler Review.

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging, that you wish to bring to our attention?

Reports from the introduction of Standardised Packaging in Australia indicate the following

- Tobacco industry volumes are increasing having been declining before December 2012 (InfoView)
- The decline in cigarette smoking since December 2012 has slowed (Industry Survey)
- Illegal tobacco in Australia has increased since December 2012 (KPMG)
- The decline in smoking in Australia has slowed since December 2012 (Roy Morgan)

This evidence so far indicates the introduction of Standardised Packaging in Australia has not had the effect intended by the legislation. Any introduction of Standardised Packaging in the UK should be delayed until the review from Australia after two years of Standardised Packaging is known.

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations, as drafted?

AITTS welcomes the exclusion of Specialist Tobacco Products from the draft regulations. The evidence for this is clear and any call for them to be included would be wrong. AITS has already given evidence in the previous consultation on this matter. The main reasons for not introducing Standardised Packaging on Specialist Tobacco Products are as follows;

- there are so many varieties that manufacturers would have to cut back on choice
- it would be difficult for customers to find specialist tobacco products when they visit
- there is no need as they do not appeal to children
- they would be easy to counterfeit
- it would make people buy abroad, or on foreign internet sites, and by-pass legitimate British Specialist Tobacconists

Although this exemption is proposed, Part 4 Section 10 of the Draft Regulations in Appendix B would have a very considerable impact on the packaging of Specialist Tobacco Products. These requirements would mean packaging of Specialist Tobacco Products would not have sufficient information for consumers to know what they are buying. Cigars and pipe tobacco have a very large variety of flavours and a great number of their names reflect this. Also a number of pipe tobaccos have different types of tobacco leaves, which give very different characterising flavours, and it is very important these are clear on the packaging to ensure the products are clearly labelled as in other product. Although these proposed regulations are consistent with the Article 13 Tobacco Products Directive (2014/40/EU) the effect on Specialist Tobacco products would be disastrous for the trade. Suppliers of these specialist products have been surveyed and there would be huge costs in repackaging and a number of varieties would disappear from the market. The main effects of this draft regulations would result in:

- consumers being unaware of what they were buying
- serving customers would take considerably longer
- employees would find it difficult to select the correct product
- brand names would disappear resulting in compensation due to brand owners
- consumers would purchase the specialist products overseas, on foreign internet sites, and by-pass legitimate British Specialist Tobacconists
- it would be very easy to counterfeit these products

AITTS requests that Part 4 Section 10 of the Draft Regulations in Appendix B should exclude Specialist Tobacconist Products as the effect would be the same as introducing Standardised Packaging on these products, which these draft regulations are not intended for.

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

The final decision whether to introduce Standardised Packaging should be delayed until the review from Australia is known as this would access the results from two years experience of this legislation. The Chantler Review does not give any evidence that there would be any health benefits.

The costs in relation to the proposed introduction of Part 4 Section 10 of the Draft Regulations on Specialist Tobacco Products has not been assessed.

The Impact Assessment states there may be an adverse impact on the illicit trade of tobacco products. If the packaging is made simpler logic indicates that the illicit trade in tobacco products

will increase, thus reducing revenue to the Government, increasing adverse health impacts owing to tobacco products which do not comply with legislation and increase smoking in younger people because the costs of tobacco products are reduced.

AITs members transaction times would increase if the Draft Regulations are introduced and members would lose money with all the increased amount of legislation.

CONCLUSION

AITs say it would be better to await the review of result of the first two years of Standardised Packaging in Australia before it is introduced into the UK. Also Standardised Packaging should be delayed until the result of the full display ban is known. Our members are facing a huge amount of legislation already and any further regulations would have an adverse impact on their businesses.

Although AITs welcome that Standardised Packaging is not proposed for Specialist Tobacco Products Part 4 Section 10 of the Draft Regulations effectively have the same affect. AITs request this section of the Draft Regulations is altered so Specialist Tobacco Products are not affected.

EL 118

Nude Brand Consulting Ltd
Top Floor 2-4 Old Street
London EC1V 9AA
T +44(0) 207 253 2003

Department of Health Standardised Packaging Consultation
PO Box 1126, Canterbury
CT1 9NB

4th August 2014

Dear Sir / Madam,

I am writing as a formal response to the Department of Health's consultation on the introduction of regulations for standardised packaging of tobacco products.

First and foremost, as a responsible parent of 4 children, I believe in a measured and effective programme to reduce the level of smokers and eradicate young people taking up the habit. I also strongly believe in our freedom and celebrate the freedom we have as UK citizens to make our individual choices.

Having read the recent Chantler Review I must conclude that in my opinion it presented no evidence at all that plain packaging will actually have any positive behavioural impact on smokers in the UK. Therefore it appears, due to the lack of credible evidence, a completely inadequate basis to proceed with plain packaging.

Australia implemented plain packaging in December 2012. This must form a significant basis for the way forward. There is no evidence that plain packaging has worked or had any positive behavioural impact. Research from Australia has demonstrated that the downward trend in smoking prevalence has not been impacted by the introduction of plain packaging. This must be a major concern? The Australian government are not reviewing the policy until December 2014. My view is that as Australia is the only country that has introduced plain packaging, the Department of Health should surely wait for the outcome of this review until making any decisions in the UK.

The Chantler Review is also focused primarily on public health impacts, and does not consider the wider implications of plain packaging, including the impact on wholesale businesses, retailers, packaging suppliers and the wider supply chain in the UK. I am Director who owns and manages a graphic design agency - Nude Brand Consulting. The agency specialises in branding and packaging design. We work with large multinational companies including Pernod Ricard and Coca-Cola, but 60% of our work is in branding tobacco products for Japan Tobacco International. The company has eighteen full time employees. The

nude

proposed plain packaging law would have a direct impact on my company, without which I would be forced to cut back on staffing, with my own also at risk.

The proposal for plain packaging for tobacco sets a dangerous precedent. I believe the future impact should be considered regardless of individual views on tobacco and smoking. If the proposal for plain packaging for tobacco is approved in the UK, then the same rules must also be applied to other products that are bad for us. Therefore immediately the same principle should be applied to alcohol, fizzy drinks, fatty foods, salty foods, even cars brands. It is staggering that although alcohol currently has a social cost to the UK of £22 billion, it is viewed differently to the tobacco industry. A bad diet is one of the biggest threats to our national health, and with far less awareness than the dangers of smoking. So shouldn't all food with high salt content, high fat content or highly processed foodstuffs be in plain packaging too with extremely graphic images such as gastric bands and heart disease?

I would also question the legality of the move to plain packaging. The removal of an established company's IP (Intellectual Property) on a legal product that may have been built up over 100 years is a very dangerous and draconian step. Without individual packaging some consumers' brand loyalty would cease to exist and consumer's purchasing would be based on price alone. This is of particular concern in the tobacco industry where driving the price down makes the products far more accessible for young people to buy, and counteracting the heavy taxing of tobacco to discourage purchase. It would also be the case for alcohol and food. A legal product should not be penalised in such a way and its brand value and identity taken away. I can only imagine the legal costs the Government and the UK tax payer will face if all the tobacco companies take this to European courts?

There are also the concerns about the increase in illicit trade that will come from standardised packaging. Plain packs are much easier to fake than branded ones. In fact illegal traders would benefit from continuing to sell 'branded' packaging without health warnings. In fact Canada has a terrible problem with consumers buying sticks in bundles from illicit traders – they don't even know what they are buying – and even more importantly, the Canadian government have completely lost track of current smoking figures due to forcing the market underground.

I can give many expert examples of why plain packaging is a dangerous idea, but please consider these two;

With plain packaging, there will be no indication of strength of tar nicotine levels. What if smokers use a stronger tar nic product unknowingly? Can they in turn be causing more harm to themselves by a move

designed to do the opposite? Can they then sue the Government for taking away information that was designed to inform them?

The suggestion that consumers, even young consumers, are primarily influenced by branding to embark on an addiction knowingly detrimental to their health is a radical assumption with no documented proof. Within our office we have three design conscious employees under the age of 25 and a further five under the age of 35 all of who work on tobacco branding. None of who smoke and none of who have ever sampled the tobacco products that they work on even when their designs, which have been created to their personal aesthetics, are available in the market. Interestingly however, all admit to having sampled other, non-tobacco products such as cosmetics, foods and drinks that they have worked on. This leads me to believe that although branding is a powerful selling tool to existing consumers, the branding of tobacco products is not alluring enough to encourage trial.

It is a known fact that the causes of young people taking up smoking are negative social influences, the ease of obtaining the product and a desire to seek an elite thrill. This behaviour is a difficult trend to break.

In my experience, (from sitting in many research groups for nearly ten years) I hear only of the person who 'introduced' the smoker to the brand – for example, "I started smoking Silk Cut because my Nan smokes them". This strongly suggests that education in schools and family environment is the critical area to address to reduce the amount of 'new smokers'.

Previous governments have previously rejected the introduction of plain packaging because of the lack of evidence that it will work. There is no further evidence now, and no good reason why the Government should have changed its position from July 2013 when the Public Health Minister, Anna Soubry MP, said: "We are waiting to see how things develop in Australia and, as I say, good laws are based on good, sound evidence. That is the way forward."

Without conclusive evidence, the decision cannot be taken to implement plain packaging for tobacco, especially with the dangerous precedent it will set and the wider implications.

Yours sincerely,



[REDACTED]

From: [REDACTED]
Sent: 05 August 2014 08:18
To: Tobacco Packaging
Subject: Standardised Packaging of tobacco products.

Please take note that even where the country promotes sport and health, Australia found standardised tobacco products were a miserable failure.

Smoking did not decrease and illicit trade was up by 20%. With the certain increase in illicit trade it will increase the burden on an already failing customs department.

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EL 720

From: [REDACTED]
Sent: 05 August 2014 08:56
To: Tobacco Packaging
Subject: Tobacco product packaging

Draft regulations proposed on standards of packaging of tobacco products surely leave the door open to unscrupulous abuse of contents and illicit trade. Please record my objection to this dangerous and ill thought through proposal

[REDACTED] and scanned by the Government Secure Intranet anti-virus service Symantec.

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EL 121

Sent: [REDACTED]
To: [REDACTED]
Subject: Tobacco product packaging

Draft regulations proposed on standards of packaging of tobacco products surely leave the door open to unscrupulous abuse of contents and illicit trade. Please record my objection to this dangerous and ill thought through proposal

[REDACTED] and scanned by the Government Secure Intranet anti-virus service Symantec.

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E.L 122

From: [REDACTED]
Sent: 05 August 2014 09:32
To: Tobacco Packaging
Subject: Standardised packaging.

NO TO STANDARDISED PACKAGING.

[REDACTED]

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EL 124

Meridian Court, 5 Cadogan Street, Glasgow G2 6QE
www.healthscotland.com



5 August 2014

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB

Dear Sir/Madam

Consultation: the Introduction of Regulations for Standardised Packaging of Tobacco Products

Thank you for the opportunity to respond to the above consultation.

Please find attached NHS Health Scotland's response.

If you have any questions regarding our response, or wish to discuss any point further, please contact [redacted] in the first instance.

We would welcome feedback on how helpful you have found our response.

Yours sincerely

[redacted signature]

[redacted name]

Chief Executive

[redacted contact information]



Edinburgh office:
1 South Gyle Crescent, Edinburgh EH12 9EB



Department
of Health



Llywodraeth Cymru
Welsh Government



The Scottish
Government
Riaghaltas na h-Alba



Department of
Health, Social Services
and Public Safety
www.dhssps.ni.gov.uk

Consultation on the introduction of regulations for standardised packaging of tobacco products – Response Form

a. Are you responding (required):

- As a member of the public (go to question b)
- As a health or social care professional (go to question b)
- On behalf of a business or as a sole trader (go to question c)
- On behalf of an organisation (go to question c)

b. Please provide your details and contact information:

Name of respondent (required)

Address of respondent (required):

Contact email address (required):

Now go to question f

c. Please provide your organisation's details and contact information:

Name of organisation (required):

Name of person providing submission (required):

[Redacted] _____

Job Title (required):

Chief Executive Officer

Contact address of organisation (required):

NHS Health Scotland, Meridian Court, 5 Cadogan Street, GLASGOW, G2 6QE

Contact email address (required):

[Redacted] _____

Is this the official response of your organisation? (required):

Yes

No

d. If you are responding on behalf of a business, what type is it?

Tobacco retailer (supermarket)

Tobacco retailer (convenience store)

Tobacco retailer (other type of shop or business)

Specialist tobacconist

Duty free shop

- Wholesale tobacco seller
- Tobacco manufacturer
- Retailer not selling tobacco products
- Pharmaceutical industry
- Business involved in the design or manufacture of packaging
- Other (please provide details below)

If other, please tell us the type of business:

e. If you are responding on behalf of an organisation, what type is it?

- NHS organisation
- Health charity/NGO (working at national level)
- Local Authority
- Local Authority Trading Standards or Regulatory Services Department
- Local tobacco control alliance
- Retail representative organisation
- Industry representative organisation
- Other type of business representative organisation
- University or research organisation
- Other (please provide details below)

If other, please tell us the type of organisation:

f. Does your response relate to (required):

United Kingdom

England only

Scotland only

Wales only

Northern Ireland only

g. Do you, or the business or organisation you represent, have any direct or indirect links to, or receive funding from the tobacco industry? (required)

No

Yes (please describe below)

If yes, please describe:

h. If you do not wish your details to be identified in the summary report of consultation responses, please tick this box

Consultation questions

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

NHS Health Scotland recognises the substantive role that tobacco advertising and promotion has played, the potential that standardised packaging could bring, and considers it an important and crucial development in tobacco control, building on the momentum from and complementing other tobacco control legislation. It would provide consistency of messages of the harms of tobacco, ultimately contributing towards young people growing up in a culture with less exposure to tobacco and its promotion, and thereby potentially having a positive impact on inequalities given the socio-demographic profile of age of initiation and associated subsequent morbidity and mortality.

The Chantler Review is comprehensive and has considered the evidence from a wide and varied range of sources, including having assessed the validity of the Public Health Research Consortium's review, and having considered research-based material from interested parties, evidence from meetings, and from a visit to Australia to assess implementation of its standardised packaging legislation. The review carefully weighs up all of this evidence and limitations before reaching its conclusions and noting any areas of outstanding concern. The conclusions are based on a fair, balanced and insightful reflection of the evidence and of the potential of the introduction of standardised packaging and of the advantages of proceeding imminently rather than delay implementation while simultaneously monitoring impacts.

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

The Chantler review has considered and summarised a range of evidence including an update since that which had been provided for the 2012 consultation. In addition, the submission to the Independent Review into Standardised Packaging of Tobacco from Public Health England (January 2014) includes new survey evidence and PHE's interpretation of the most recent published literature, which add to the various reviews' conclusions that: standardised packaging would reduce the appeal of smoking and attractiveness of cigarette packaging, in particular to young people who are drawn to them; increase the salience and credibility of health messages and reduce misconceptions about relative harmfulness of various brands; may reduce intention to quit, and have the potential to reduce the incidence and prevalence of smoking, in turn improving the health and wellbeing of young people, and reducing premature mortality. It builds on other tobacco control policy and legislation, particularly around advertising and promotion, and has strong professional support

(eg local government and directors of public health) and support from the public (ASH Scotland / You Gov survey) including the potential to decrease health inequalities. Recent evidence from Australia's implementation of standardised packaging reveals: per capita tobacco use decreased by 5% per annum in the first year post-implementation; a sustained increase in calls to their quitline not attributable to other tobacco control interventions and more sustained than post-implementation of graphic health warnings on packaging; smokers are less likely to leave their packs on display and tend to obscure them purposefully; lower smoking appeal, more support for the policy and more perceived urgency to quit due to timely and engaging motivational reminders of the consequence of tobacco use; no rise in illicit tobacco and that the small proportion of illicit tobacco products seized have been in standardised packaging, with a reduction in counterfeiting of brands since the legislation's implementation; and no problems for shopkeepers have been identified in service times with the exception of the first week post-implementation.

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

The example of standardised packaging shows the England smokefree quitline website and telephone number; if this website is accessed for details of local services, it does not recognise postcodes outwith England; ideally, it ought to include either all of the 4 countries' quitline details or, if practical, that of the country in which it is being sold. The draft regulations could be expanded to include all tobacco products ie cigarettes, hand-rolled tobacco, cigars, pipe tobacco, shisha, and also electronic cigarettes which are not covered by medicinal licenses, given that the tobacco market and that of smoking simulators is constantly evolving; this would minimise the likelihood of those products not covered by this legislation being made more appealing or perceived to be more acceptable or less harmful, particularly by young people who either have not taken up use of tobacco or similar products or are not yet committed to a particular brand. Improvements to the regulations could also include tighter specifications of size and shapes of packs, and the inclusion of specifications around shape/size/design of cigarettes, to minimise the likelihood of opportunities for brand definition and promotion through pack and cigarette size. A requirement for regular changes in health warnings could potentially maintain the salience of messages and thereby motivation to quit among tobacco users.

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

The impact and the impact on equalities have been revised, and the categories considered (age, socio-economic groups, sex, disability, race and ethnicity, pregnancy, sexual orientation) by the impact assessment are a comprehensive range and would appear to have considered the evidence thoroughly, with a fair summary and of assumptions and estimates.

Thank you for participating in this consultation.

The Department of Health and Devolved Administrations will only contact you should we seek further information about your response.

How to get involved in the consultation

The consultation will run for 6 weeks, from 28/06/14 to 07/08/14. Responses are invited from any interested group, company or person.

Respondents are encouraged to provide their views online, but responses can be made in any of the following ways:

Completing the online form on the Department of Health website at:

[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

[1](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

- **Filling in the response form by downloading it at:**

<https://www.gov.uk/government/consultations>

- **Emailing your response to:**

TobaccoPackaging@dh.gsi.gov.uk

- **Posting your response to**

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB

EL 125

From: [REDACTED]
Sent: 05 August 2014 09:59
To: Tobacco Packaging
Cc: [REDACTED]
Subject: Standardised packaging of tobacco products: Submission
Attachments: UZH_EconWp_165.pdf

Dear Sir or Madam,

I would like to submit my attached paper entitled: "The (Possible) Effect of Plain Packaging on Smoking Prevalence in Australia: A Trend Analysis" for consideration in the ongoing UK consultation process on standardised packaging of tobacco products. The paper appeared in the University of Zurich Department of Economics Working Paper Series [ISSN 1664-7041 (print) ISSN 1664-705X (online)] as Working Paper No.

165.

The paper is coauthored with my colleague [REDACTED] from the University of Zurich who I copy in.

I also wanted to point your attention to our companion paper entitled:

"The (Possible) Effect of Plain Packaging on the Smoking Prevalence of Minors in Australia: A Trend Analysis". It appeared in the same Working Paper Series as WP No. 149. It was presented to the Chantler review team earlier this year. However, it was not referenced in the Chantler report.

Both papers were funded by Philip Morris International.

We would be grateful if our research would be taken into consideration in the consultation process in the UK.

Please confirm receipt of this email.

Thanks in advance.



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**University of
Zurich** ^{UZH}

University of Zurich
Department of Economics

Working Paper Series

ISSN 1664-7041 (print)
ISSN 1664-705X (online)

Working Paper No. 165

**The (Possible) Effect of Plain Packaging on Smoking
Prevalence in Australia: A Trend Analysis**



June 2014

The (Possible) Effect of Plain Packaging on Smoking Prevalence in Australia: A Trend Analysis*

Prof. Dr. Ashok Kaul[†]

Institute for Policy Evaluation (IPE), Saarland
and Department of Economics, Saarland University

Prof. Michael Wolf, Ph.D.[‡]

Department of Economics
University of Zurich

June 2014

Abstract

A stated objective of the Australian Plain Packaging Act 2011 is to reduce smoking prevalence. We use the Roy Morgan Single Source (Australia) data set over the time period January 2001 to December 2013 to analyze whether this goal has been achieved in the first year since the implementation. In particular, we carry out a statistical trend analysis to study the (possible) effect of plain packaging on smoking prevalence. Two informative analyses help to draw conclusions on the (actual) effect of plain packaging on smoking prevalence in Australia. First, we look at the year of data *before* plain packaging was introduced, which happened in December 2012. Second, we compute confidence intervals around the estimated treatment effects.

Our main results can be summarized as follows. First, if a statistical significance level of 5% is required, then there is no evidence at all for a plain packaging effect on smoking prevalence. Second, if one is willing to accept a relatively low level of statistical significance (that is, 10%), then there is evidence for a very short-lived plain packaging effect on smoking prevalence, namely in December 2012 only (after which smoking prevalence is statistically indistinguishable from its pre-existing trend).

A formal power analysis demonstrates that the power of our inference methods is remarkably high.

KEY WORDS: Plain packaging, smoking prevalence, treatment effect, trend analysis.

JEL CLASSIFICATION NOS: C13, C22, H43, I18.

*Philip Morris International provided the funding for this research. At no time did we provide Philip Morris International with access to the underlying data for minors (14–17 years old). The data for adults were provided to us by Philip Morris International.

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[‡]University of Zurich, Department of Economics, Wilfriedstrasse 6, CH-8032 Zurich, Switzerland. Email: michael.wolf@econ.uzh.ch. Michael Wolf is corresponding author.

1 Goals and Basic Setup

The Australian Tobacco Plain Packaging Act 2011 prescribes that from December 2012 on, cigarettes and other tobacco products have to be sold in plain packages in Australia, that is, in packs with a standardized design and shape. Australia is thereby the first country to introduce such a regulation. The key objective of the Plain Packaging Act 2011 is the improvement of public health by discouraging the taking up of smoking and by encouraging the giving up of smoking and the use of other tobacco products. So far, there is no empirical evidence that the measures prescribed by the Plain Packaging Act 2011 are effective in attaining the stated goals of the Australian government. In fact, there is hitherto only a single research paper that empirically studies the (possible) effect of plain packaging in Australia on changes in smoking prevalence: Kaul and Wolf (2014) provide a trend analysis similar to the one in this paper but focusing on minors (aged 14–17 years) only.¹ They fail to find any evidence for a plain packaging effect on Australians aged 14–17 years.

Plain packaging in Australia was implemented in December 2012 and thus had been in place for one year in December 2013. As a consequence, reliable data that cover both the pre-implementation period and a sufficiently long post-implementation period are now available for a first thorough empirical assessment of the effects of plain packaging. Given the unprecedented nature of the intervention, no one could predict for sure what the intervention would lead to. In a notable contribution, Pechey et al. (2013) run an elicitation survey on over 30 internationally-renowned experts on tobacco control policies, asking them about their expectations of the effect of plain packaging on smoking prevalence rates two years after its introduction. The experts were asked to provide estimates, *holding all other factors constant*. In the case of Australia, the introduction of plain packaging came together with an enlargement of graphical health warnings. Assuming both effects work in the same direction, the Australian case should therefore show a bigger reaction than what would be expected based on an isolated plain packaging experiment alone. The median estimate of the experts in Pechey et al. (2013) for the impact on adult smoking prevalence was a one percentage point decline. Taking the expected reaction for adults as a lower bound, we can therefore expect to find at least a drop in smoking prevalence of one percentage point two years after the introduction of plain packaging (if the expert opinions are correct predictors of what to expect). Since we have one year of post-implementation data, it is important to ensure that an actual plain packaging effect of less than one percentage point is picked up by the chosen statistical inference methods with reasonable power.

This paper addresses the question whether there is empirical evidence showing that the pre-implementation trend in smoking prevalence in Australia has been changed by plain pack-

¹Since a major reason for the introduction of plain packaging was the objective of reducing smoking prevalence of minors in particular, there is considerable interest in analyzing the sub-population of minors separately.

aging. The research question guiding our statistical analysis is the following: Can we find any plain packaging effect on smoking prevalence *at all* over the 13 months from December 2012 to December 2013? In principle, a careful analysis requires the use of a multiple-testing adjustment to take the possibility of “cherry picking” into account (that is, the possibility of searching for a statistically significant effect over the entire period).² Note, however, that in most of the paper, we employ a statistical approach more favorable to finding a plain packaging effect, namely by asking whether there is a plain packaging effect in any *specific* month. This approach ignores “cherry picking” and does not require any multiple-testing adjustment. A formal power analysis demonstrates that our approach can identify even small reductions in smoking prevalence with reasonable power.

2 Data Description and Construction

We use the Roy Morgan Single Source (Australia) data set (RMSS subsequently) over the time period January 2001, to December 2013. The total sample size over this 13-year period is around 700,000; the average annual sample size is around 54,200.

Roy Morgan is a major Australian market research firm and the Single Source data set has been drawn from the so-called establishment survey. These are weekly surveys realized as computer-assisted personal interviews (CAPI) that are administered door-to-door; see Roy Morgan Research (2012).

In each month, we compute (observed) smoking prevalence as the average of the 0-1 variable *smoker* in the RMSS data that indicates whether an individual in the sample smokes. Note that there is considerable variation in the sample size over time; see Figure 1. The sample sizes generally range between 3,500 and 5,000 and are thus quite large.³ On the other hand, the composition of the sample changes from month to month; therefore, it is expected that monthly observed prevalence is unstable over time. This is indeed the case; see Figure 2.

3 Data Analysis

3.1 Fitting a Linear Time Trend

We start by modeling a simple linear time trend. This is achieved by estimating the regression model

$$p_t = \alpha + \beta \cdot t + \varepsilon_t \quad (3.1)$$

²For example, Heckman et al. (2010) convincingly promote the use of multiple-testing adjustments to avoid the erroneous detection of treatment effects when “cherry picking” is possible.

³December 2013 is marked by a relatively low number because Roy Morgan decided not to interview in the week leading up to Christmas. Therefore, the sample size for December 2013 is ‘only’ 3,124. Future numbers are expected to be higher again.

Here, p_t denotes the observed prevalence in month t ($t = 1, \dots, 156$), α denotes the intercept of the linear time trend, β denotes the slope of the linear time trend, and ε_t denotes the error term in month t (that is, the deviation of the observed prevalence from the trend line).

We fit model (3.1) by weighted least squares, using the monthly sample sizes as the weights.⁴ The fitted model is given by

$$\hat{p}_t = 24.61 - 0.040 \cdot t. \quad (3.2)$$

This model implies an average yearly decline of $12 \cdot 0.040 \approx 0.48$ percentage points in smoking prevalence over the period 2001 until 2013; see Figure 2 for a graphical display. We also include a local, nonparametric trend that does not make any assumptions on the parametric form of the trend (like linear or quadratic). Such a nonparametric trend provides a good local fit and avoids the problem of misspecification.⁵ It can be seen that the (global) linear trend is not a very satisfactory fit to the observed data: it is somewhat too high early on and in the final years while somewhat too low in the middle.

Despite its flexible nature, the nonparametric fit resembles a straight line in the second two thirds of the observation period, which is the interval of main interest to us. For simplicity, and for ease of reproducibility of our results by other researchers, we match the nonparametric trend in the second two thirds of the data by fitting a linear time trend from 07/2004 on.⁶ Furthermore, we exclude the data from 12/2012 until 12/2013 in fitting this linear time trend, thereby avoiding a possible contamination of the fitted trend line in case there should be a strong plain packaging effect. The fitted trend⁷ based on the period 07/2004–11/2012 is given by

$$\hat{p}_t = 25.23 - 0.045 \cdot t. \quad (3.3)$$

(A more detailed regression output can be found in Table 1.) This model implies an average yearly decline of $12 \cdot 0.045 \approx 0.54$ percentage points in prevalence from 07/2004 on. The results are displayed in Figure 3. It can be seen that in the last two thirds of the period, the linear trend is, for all practical purposes, indistinguishable from the nonparametric trend.

From here on, we will therefore base the analyses on the fitted linear trend (3.3).

⁴Since the sample sizes vary considerably over time, as evidenced in Figure 1, weighted least squares (WLS) gives more accurate estimation results than ordinary least squares (OLS); for example see Hayashi (2000, Section 1.6).

⁵We use a standard off-the-shelf method, namely the function `loess` of the statistical package R (with default model parameters); see <http://stat.ethz.ch/R-manual/R-patched/library/stats/html/loess.html>.

⁶Other researchers who do not use the statistical package R might get slightly different results when fitting a nonparametric trend. But they will get the same results when fitting a linear time trend from 07/2004 on.

⁷Again obtained by weighted least squares.

3.2 Analyzing Deviations from the Linear Time Trend

3.2.1 A Naïve First Step

The deviations of the observed data from the fitted linear time trend from 12/2012 until 12/2013 are displayed in Figure 4. Of the 13 deviations, seven are negative and six are positive. The average deviation is -0.16 percentage points. A naïve (and incorrect) interpretation would be that, on average, plain packaging has resulted in a monthly reduction in prevalence of 0.16 percentage points.

However, one must take into account that the observed prevalence numbers are only estimates themselves. Therefore, one must not equate an estimated (treatment) effect of plain packaging in a given month — namely, the deviation of the observed prevalence from the fitted trend line — with the true effect.

3.2.2 A More Informative Analysis Based on Pre Plain Packaging Deviations

One robustness check is to also include *previous deviations* from the linear time trend in such a plot. If one starts the plot one year prior to the intervention, that is, in 12/2011 rather than in 12/2012, then the numbers post 12/2012 are not ‘unusual’ compared to the numbers pre 12/2012; see Figure 5.⁸ In fact, given the generally larger deviations (in absolute value) pre 12/2012, the deviations post 12/2012, with the possible exception of 12/2012 itself, appear just like random noise. The largest negative deviation from 01/2013 on is -0.87 percentage points in 04/2013. But there are two larger negative deviations *before* 12/2012, namely -1.32 in 02/2012 and -1.56 in 04/2012. It is clear that a negative deviation from the fitted time trend alone cannot be equated with an actual plain packaging effect.

The average deviation post 12/2012 is -0.04 percentage points.⁹ This is smaller than the average deviation pre 12/2012, which is 0.23 percentage points. However, this difference is not statistically significant: carrying out a two-sided t -test¹⁰ yields a p -value of 0.38 .

According to this analysis then, there is no evidence for a plain packaging effect beyond 12/2012 itself.

3.2.3 A More Informative Analysis Based on Confidence Intervals

Another robustness check is to add confidence intervals to the estimated effects of plain packaging in Figure 4. For a given month, this can be achieved as follows:

⁸The numbers pre 12/2012 are the numbers 12/2011–11/2012 and the numbers post 12/2012 are the numbers 01/2013–12/2013, so each set of numbers corresponds to twelve months (for reasons of symmetry).

⁹This number differs from the number -0.16 percentage points stated in Section 3.2.1, since 12/2012 itself is excluded now.

¹⁰Using a nonparametric inference method, such as a bootstrap test, does not change this conclusion. We report the outcome of the t -test, since this simple result can be easily reproduced by other researchers.

Algorithm 3.1 (Computation of Confidence Intervals for Plain Packaging Effects)

1. Compute a 90% prediction interval for the observed prevalence based on the fitted time trend (that is, assuming no plain packaging effect). This means if another random sample (with the same sample size) had been chosen instead for this month, then the resulting observed prevalence would have fallen in this interval with 90% confidence (assuming no plain packaging effect). Or, alternatively, 90% of all possible random samples (with the same sample size) would have resulted in observed prevalence numbers falling in this interval (assuming no plain packaging effect). By construction, this interval is centered at the linear time trend.
2. Subtract the observed prevalence based on the original data from the upper and the lower interval end points.
3. The thus shifted resulting interval can be interpreted as a 90% confidence interval for the actual (treatment) effect of plain packaging. By construction, this interval is centered at the deviation from the linear time trend. If the entire interval lies below zero, then there is evidence (at the 90% confidence level¹¹) that plain packaging has led to a reduction in prevalence.

The results are displayed in Figure 6. It can be seen that there is no statistical significance for a plain packaging effect beyond 12/2012 itself: for all other months, the number zero is contained in the confidence interval.

Several reasonable variations to the methodology used are possible and could in fact be called for, either because they are more standard than the method we use or because they are more appropriate (superior) given the properties of the data.

- We have computed the prediction intervals in step 1. of Algorithm 3.1 using standard textbook methodology based on an assumption of a normal distribution of the error terms ε_t in the linear model for the time trend. An analysis of the residuals¹² of the fitted model (3.2) indicates that this assumption is not violated in any noticeable way. It is possible in step 1. to use a more refined (and more computationally involved) bootstrap approach to compute prediction intervals that also incorporate potential non-normality of the error terms. The resulting changes would be minor, at most, and they would not change our conclusions.¹³
- The standard textbook methodology for the prediction intervals in step 1. of Algorithm 3.1 also assumes that the error terms ε_t around the linear time trend are independent and identically distributed (i.i.d.). This assumption might be violated in our

¹¹Or, equivalently, at the 10% significance level.

¹²The residuals $\hat{\varepsilon}_t$ are computed as $\hat{\varepsilon}_t = p_t - \hat{p}_t$ ($t = 43, \dots, 143$).

¹³Again, we opt for sticking with the simpler methodology, so that our findings can be more easily reproduced by other researchers.

application, since the data is collected over time and so the error terms might be autocorrelated. First of all, ignoring such a violation would only have a minor effect, since a (possible) autocorrelation of the error terms enters into the uncertainty of the estimated coefficients of the fitted model (3.3) (that is, the estimated trend line) but not the uncertainty due to a new observation (that is, the deviation from the trend line); the latter uncertainty far outweighs the former in determining the width of the interval. Second, ignoring a (possible) autocorrelation of the error terms generally makes the intervals smaller rather than wider, since error terms are generally positively autocorrelated rather than negatively autocorrelated, if autocorrelated at all. Third, an analysis of the residuals of the fitted model (3.3) does not show any autocorrelation whatsoever; see Figure 7.

- The confidence level could be changed from 90% to 95%. The latter is more standard in applied research and would result in wider confidence intervals. If the confidence level is changed to 95%, then there is no evidence for a plain packaging effect whatsoever, since even the confidence interval for 12/2012 contains zero. More precisely, the confidence interval for 12/2012 changes from $[-3.03, -0.25]$ to $[-3.30, 0.02]$; see Figure 8.
- We have computed *pointwise* confidence intervals. That is, the confidence of 90% holds for any given month. Doing so is appropriate if one is interested in whether there is a plain packaging effect in any *specific* month, say in December 2012. But if one is interested in whether there is any plain packaging effect *at all* over the 13 months under consideration, it is more appropriate to compute *uniform* confidence intervals, where the 90% confidence holds over all 13 months together.¹⁴ Doing so results in wider intervals, and now even the interval for 12/2012 contains zero; see Figure 9.¹⁵

3.3 Power Analysis

As mentioned in Section 2, monthly observed prevalence is unstable over time and the deviations from the fitted trend line (3.3) are not small. This might raise the concern of whether our trend analysis has any reasonable power at all against a possible plain packaging effect beyond 12/2012 itself. We address this concern by carrying out a formal power analysis.

In particular, we consider the following inference methods to test for a plain packaging effect during the period 01/2013–12/2013 which is consistent with our previous analyses.

Algorithm 3.2 (Inference Methods)

¹⁴Doing so prevents *data mining* or *cherry picking* by searching for any effect over the 13 months under consideration.

¹⁵Since there is no evidence for any autocorrelation in the error terms e_t , uniform confidence intervals can be computed in the same fashion as pointwise confidence intervals, except that the confidence level is changed from 90% to 99.2%. Note here that $0.9^{1/13} = 0.992$.

1. Fit a linear time trend (using weighted least squares) based on the observation period 07/2004–11/2012, that is, based on $t = 43, \dots, 143$.
2. Compare the average deviation pre 12/2012 to the average deviation post 12/2012, as done in Section 3.2.2. If the average deviation post 12/2012 is smaller than the average deviation pre 12/2012, carry out a formal two-sample t -test for the null hypothesis of zero difference in population (that is, for the null hypothesis of no treatment effect).¹⁶ If the t -test rejects the null hypothesis, this is considered evidence for a plain packaging effect. We call this approach inference method 1 (IM-1).
3. Compute individual 90% confidence intervals for plain packaging effects from 01/2013 until 12/2013, as detailed in Section 3.2.3. If at least one of the resulting 12 confidence intervals is entirely negative, this is considered evidence for a plain packaging effect. We call this approach inference method 2 (IM-2).
4. Overall, evidence for a plain packaging effect is established if at least one of these two approaches, IM-1 or IM-2, finds evidence. We call this 'combined' approach inference method 3 (IM-3).

The next step is to generate pseudo data that are qualitatively similar to the observed data, but where a specified plain packaging effect is 'enforced'. Here some care must be taken, since the monthly sample sizes are not constant, which implies that the error terms ε_t around the trend line do not have the same variance. Denote the sample size in month t by n_t ($t = 43, \dots, 156$). Then we may assume

$$\text{Var}(\varepsilon_t) = \frac{\sigma^2}{n_t} \quad \text{for some } \sigma^2 > 0.$$

The fitted model (3.3) yields the estimator $\hat{\sigma}^2 = 2589.7$.

We next detail how we generate pseudo prevalence data according to a model that is in agreement with the observed data but has a specified plain packaging effect $\Delta > 0$ 'enforced' from 12/2012 on, that is, from $t = 144$ on.¹⁷

Algorithm 3.3 (Generation of Pseudo Data with Specified Plain Packaging Effect)

1. Generate $\gamma_{43}^*, \dots, \gamma_{156}^*$ independent and identically distributed as $N(0, 2589.7)$, where the notation $N(0, \sigma^2)$ denotes a normal distribution with mean zero and variance σ^2 .
2. For $t = 43, \dots, 156$, let

$$p_t^* = 25.23 - 0.045 \cdot t + \varepsilon_t^* \quad \text{where} \quad \varepsilon_t^* = \frac{\gamma_t^*}{\sqrt{n_t}}.$$

¹⁶There was no need to carry out such a t -test in Section 3.2.2, since the average deviation post 12/2012 was larger than the average deviation pre 12/2012.

¹⁷So Δ is the (fraction of) percentage points by which plain packaging has lowered prevalence beyond the time trend. It makes no difference for the purposes of this power analysis whether we enforce the effect from 12/2012 or from 01/2013 on.

3. For $t = 144, \dots, 156$, let

$$p_t^* = p_t^* - \Delta. \text{ }^{18}$$

We finally detail how we 'compute' power against a specific plain packaging effect $\Delta > 0$ via Monte Carlo simulation.

Algorithm 3.4 (Computation of Power against Specific Plain Packaging Effect)

1. Generate pseudo data with a plain packaging effect Δ according to Algorithm 3.3.
2. Analyze the pseudo data according to Algorithm 3.2.
3. If evidence is claimed, record a one; otherwise, record a zero.
4. Repeat this process a large number B of times.
5. The 'computed' power is the fraction of ones over the B repetitions.

The resulting numbers are presented in Table 2. One can see that power is actually high in general. For example, power of the inference method 3.(IM-3) against a plain packaging effect of 0.5 percentage points is 0.85 and power against a plain packaging effect of 1.0 percentage point is 0.99. Power of 0.8 is a commonly accepted industry standard¹⁹, so even the power against a plain packaging effect of only 0.5 percentage points is already very high.

4 Conclusion

We carried out a trend analysis to study the (possible) effect of plain packaging on smoking prevalence in Australia. More specifically, we fitted a linear time trend that explains well the fact that observed prevalence has declined steadily from mid 2004 on at an annual rate of about 0.54 percentage points.²⁰

It is of particular interest to see how observed prevalence behaves relative to the fitted trend line from December 2012 on (that is, from the point when plain packaging was implemented). It was seen that observed prevalence lies sometimes above and sometimes below the fitted trend line.

Two informative analyses help to draw conclusions on the (actual) effect of plain packaging on smoking prevalence in Australia. First, we looked at the year of data before December 2012. Second, we computed confidence intervals around the estimated plain packaging effects (that is, around the deviations from the fitted trend line) from December 2012 on. Both analyses fail to find any evidence for an actual plain packaging effect on smoking prevalence in Australia after December 2012.

Our results can be summarized as follows. First, if one is willing to accept a relatively low level of statistical significance (10%), then there is evidence for a very short-lived plain

¹⁸This slight abuse of notation means that the final value of p_t^* equals the value of p_t^* after step 2. minus Δ .

¹⁹For example, see Section V.G. of FDA (2008).

²⁰Observed prevalence had declined before also, but at a slower rate.

packaging effect on smoking prevalence, namely in December 2012 only (after which smoking prevalence is statistically indistinguishable from its pre-existing trend). Second, if a stronger statistical significance level (5%) is required, then there is no evidence at all for a plain packaging effect on smoking prevalence. Third, if the guiding research question is whether there is a plain packaging effect at all, one must adjust the confidence intervals to take the possibility of “cherry picking” into account (that is, the possibility of searching for a statistically significant effect over the entire period). Such an adjustment requires the use of uniform confidence intervals, in which case there is again no evidence for a plain packaging effect on smoking prevalence.

References

- FDA (2008). *Diabetes mellitus: Developing drugs and therapeutic biologics for treatment and prevention (Guidance for Industry)*. Available online at the following link: <http://www.fda.gov/downloads/Drugs/Guidances/ucm071624.pdf>.
- Hayashi, F. (2000). *Econometrics*. Princeton University Press, Princeton, New Jersey.
- Heckman, J., Moon, S. H., Pinto, R., Savelyev, P., and Yavitz, A. (2010). Analyzing social experiments as implemented: A reexamination of the evidence from the HighScope Perry Preschool Program. *Quantitative Economics*, 1(1):1–46.
- Kaul, A. and Wolf, M. (2014). The (possible) effect of plain packaging on the smoking prevalence of Australian minors: a trend analysis. Working Paper ECON 149, Department of Economics, University of Zurich.
- Pechey, R., Spiegelhalter, D., and Marteau, T. M. (2013). Impact of plain packaging of tobacco products on smoking in adults and children: an elicitation of international experts’ estimates. *BMC public health*, 13(1):18.
- Roy Morgan Research (2012). How we collect and process Single Source data in Australia. Melbourne (Australia). Roy Morgan Research. Available online at the following link: <http://www.royamorgan.com/products/single-source/single-source-fact-sheets>.

A Figures and Tables

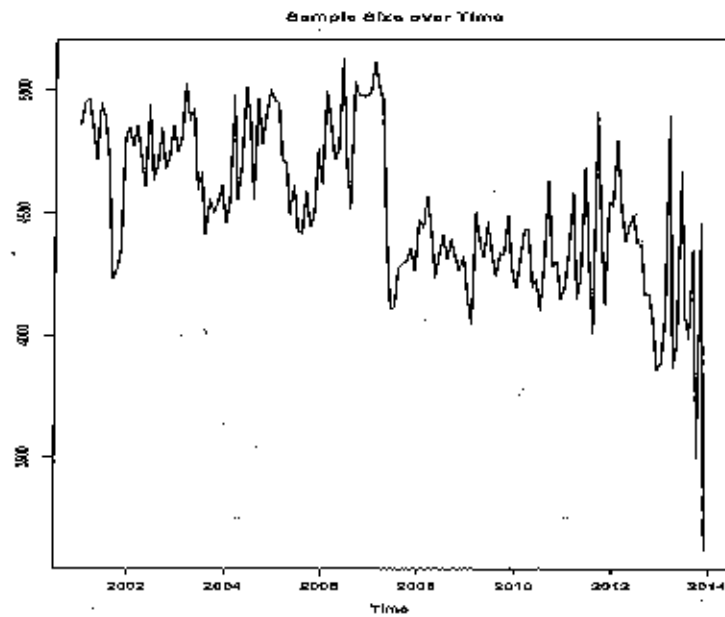


Figure 1: Time series plot of the monthly sample sizes.

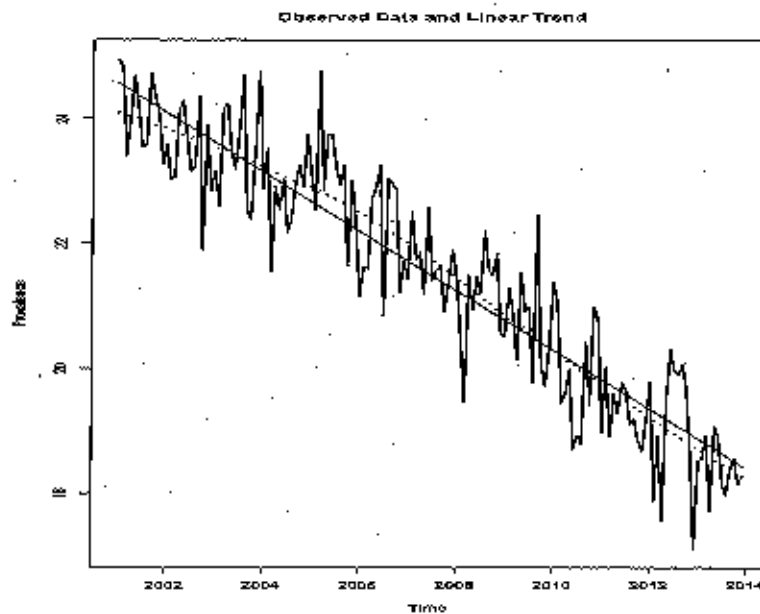


Figure 2: Time series plot of observed prevalence with fitted linear trend based on all observations (solid line). In addition, a fitted nonparametric trend has been added (dotted line).

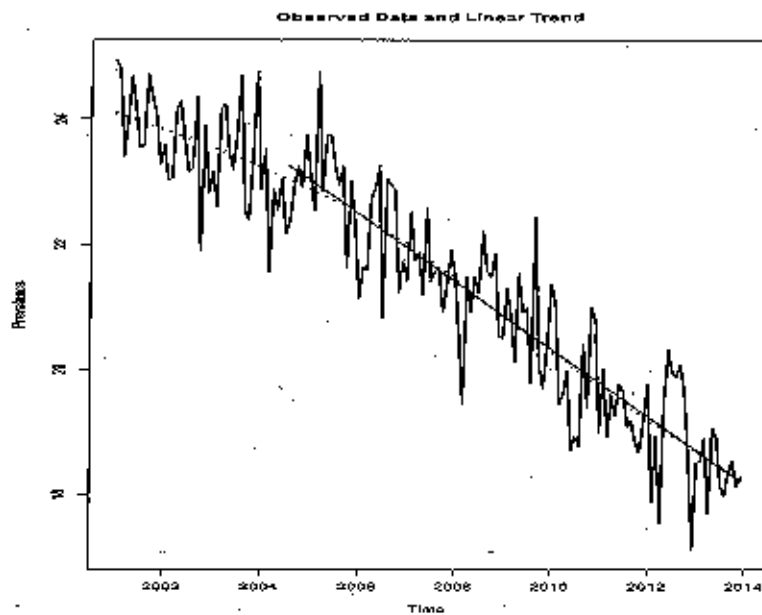


Figure 3: Time series plot of observed prevalence with fitted linear trend based on the observations from 07/2004 on (solid line). In addition, a fitted nonparametric trend has been added (dotted line).

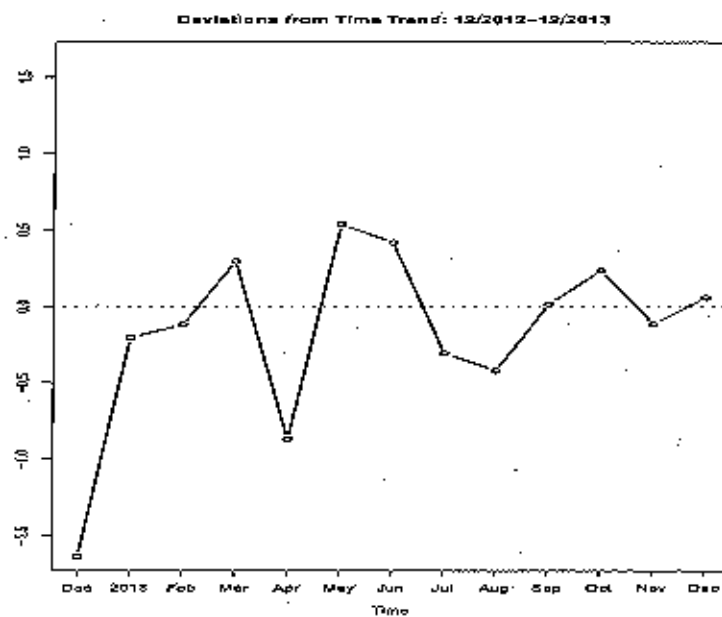


Figure 4: Deviations of observed prevalence from fitted time trend.

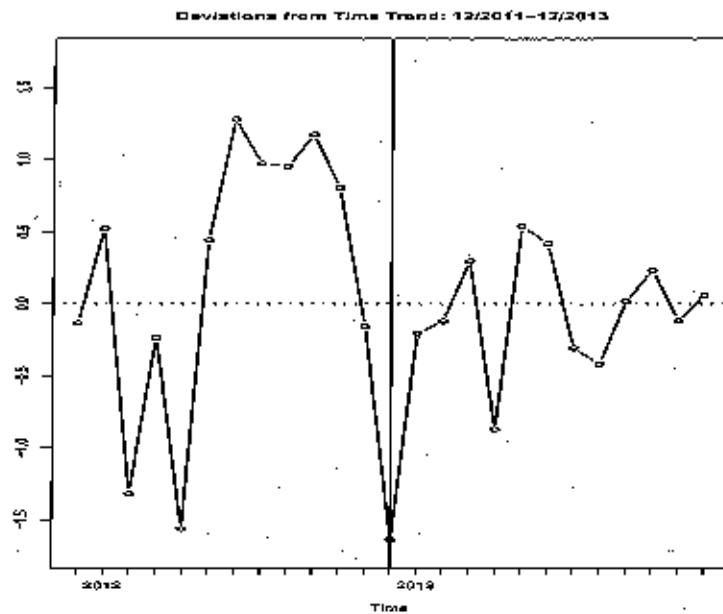


Figure 5: Deviations of observed prevalence from fitted time trend.

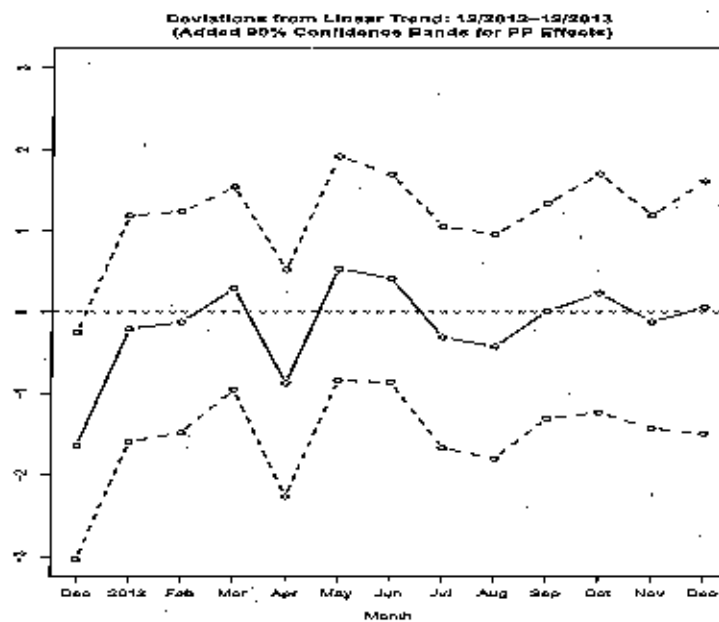


Figure 6: Deviations of observed prevalence from fitted linear time trend. Pointwise 90% confidence intervals for these estimated plain packaging effects have been added.

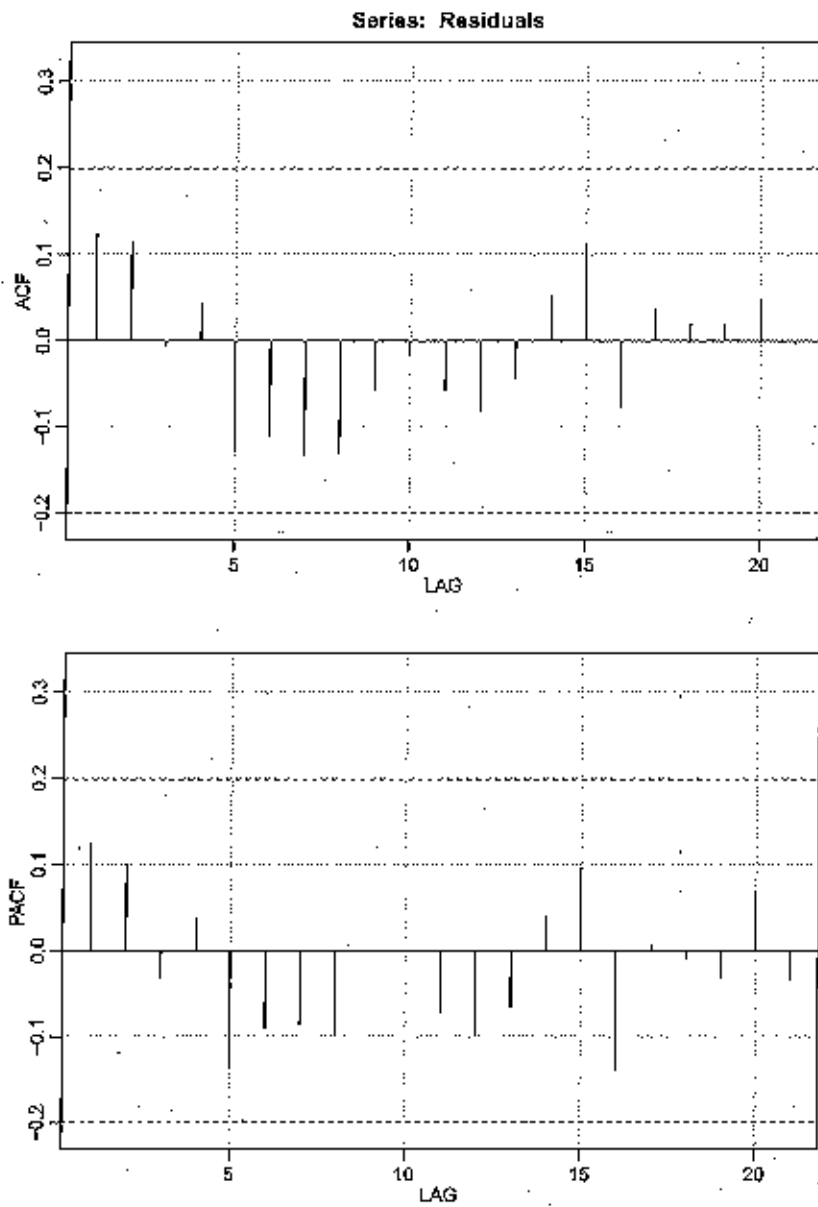


Figure 7: Autocorrelation function (ACF) and partial autocorrelation function (PACF) of the residuals of the fitted model (3.3). In each plot, bars outside the dotted bands would indicate the existence of autocorrelation.

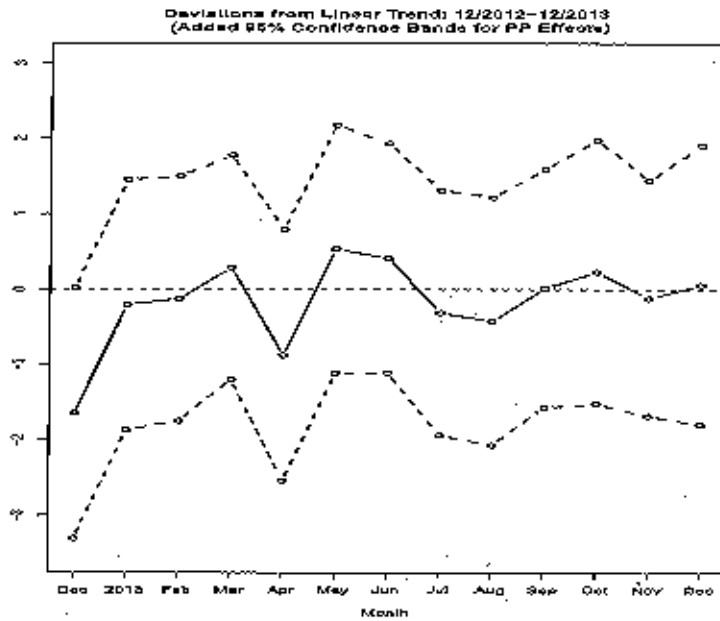


Figure 8: Deviations of observed prevalence from fitted linear time trend. Pointwise 95% confidence intervals for these estimated plain packaging effects have been added.

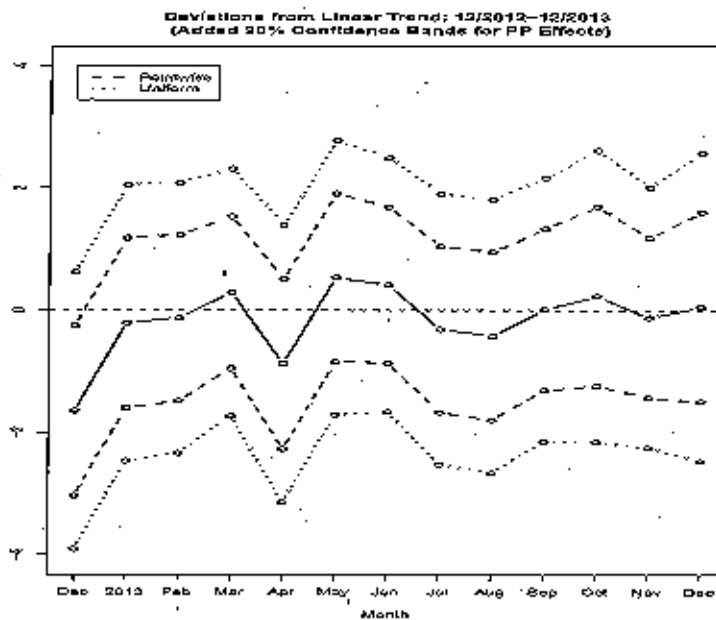


Figure 9: Deviations of observed prevalence from fitted linear time trend. Pointwise and uniform 90% confidence intervals for these estimated plain packaging effects have been added.

(Intercept)	25.230*** (0.250)
t (Month)	-0.045*** (0.003)
R^2	0.75
Adjusted R^2	0.75
Sample size	101
Degrees of freedom	99

*** $p < 0.001$, ** $p < 0.01$, * $p < 0.05$

Table 1: Regression output for the fitted model (3.3). The numbers in parentheses below the estimated coefficients are corresponding standard errors.

Effect Δ	IM-1	IM-2	IM-3
0.25	0.20	0.64	0.67
0.50	0.45	0.82	0.85
0.75	0.72	0.93	0.96
1.00	0.91	0.98	0.99

Table 2: Power against a permanent plain packaging effect Δ over the period 01/2013–12/2013. The inference methods IM-1, IM-2, and IM-3 are detailed in Algorithm 3.2. All numbers are based on $B = 50,000$ Monte Carlo repetitions in Algorithm 3.4.

EL126



Date:
Ref: DH/ag/

Please ask for:
Direct D:

Consultation on the Introduction of Regulations for Standardised Packaging of Tobacco Products: Response from Councillor Mohammed Khan Executive Member for Health and Adults, Blackburn with Darwen Borough Council

Consultation Question 1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

The Chantler review clearly supports the evidence that introducing standardised packaging will lead to great public health benefit. As well as deterring young people from taking up smoking and developing a hugely harmful addiction, standardised packaging will lead to an overall reduction in smoking prevalence over time and a reduction in second hand smoke, which in turn will lead to huge population health gains.

We welcome the response of Jane Ellison MP, Minister for Public Health, to the Chantler Review. She said that the report found standardised packaging was "very likely to have a positive impact" on public health. She went on to say: "In the light of the report and the responses to the previous consultation in 2012, I am minded to proceed with introducing regulations to provide for standardised packaging" and that she wished to "proceed as swiftly as possible". She also reported that the Government's Chief Medical Officer, Dame Sally Davies, had written to her supporting the conclusions of the Chantler Review and the introduction of standardised packaging.¹

Blackburn with Darwen Borough Council therefore fully supports the findings of the Chantler report to introduce Regulations on standardised packaging of tobacco products. We urge that these measures be introduced without further delay.

¹ House of Commons Hansard 3rd May 2014: Col 1018 et seq

Consultation Question 2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

Impact of smoking in Blackburn with Darwen

Smoking rates in Blackburn with Darwen remain amongst the highest in the country with smoking prevalence at 2012 AT 25%². Smoking is also a major cause of health inequalities in the borough with prevalence amongst routine and manual workers at 36%³. Smoking rates amongst young people in Blackburn with Darwen remain higher than both the regional and national rates with 21% of 11-17 year olds claiming to smoke⁴ and worryingly 29% of children surveyed said they first tried smoking when under the age of 14⁵. The proportion of young people who report having tried shisha smoking in Blackburn with Darwen is 43% (hence our strong assertion that shisha and other niche tobacco products be included in the legislation – see below).

It is estimated that smoking in Blackburn with Darwen creates annual costs to society of around £46.6million⁶. This is through factors such as lost productivity due to cigarette breaks and illness, house fires, litter. The cost to the NHS of smoking in the borough is £9.1million. Smokers in the borough spend £50.1million on tobacco products. Given that Blackburn with Darwen is the 17th most deprived local authority out of 326 in England⁷, these are costs which neither the local economy or local families can afford to bear. We therefore welcome the introduction of standardised packaging and the consequent reduction in smoking prevalence which has the potential to be of huge benefit to deprived communities, young people and the wider economy in the borough.

Illicit supply

A principal tobacco industry argument against standardised packaging has been that it will inevitably lead to an increase in the illicit tobacco trade. There is no good reason to accept this argument, since there is no plausible mechanism of action, and indeed evidence published since the 2012 consultation suggests that it is false

There is no plausible mechanism of action because all the key security features on existing packs of cigarettes would also be present on standardised packs. These include coded numbering and covert anti-counterfeit marks. Jane Ellison, Parliamentary Under-Secretary of State for Health, said in a November 2013 Parliamentary debate that: "I am grateful to those hon. Members who have made the point that if we were to adopt standardised packaging, it would not mean plain packaging. Approaches such as anti-smuggling devices could be built into standardised packaging, if we choose to go down that route."⁸

² Public Health England : Local Tobacco Control Profiles For England

³ Ibid

⁴ Trading Standards (2013). *Young Persons Alcohol and Tobacco Survey 2013, North West Results*. TSNW, June 2013.

⁵ Ibid

⁶ ASH(2012) *The Cost of Local Tobacco Control*

⁷ Index of Multiple Deprivation, IMD 2010

⁸ Hansard: backbench business debate. 7 November 2013 column 477

Outside packaging is in any case a very poor indicator of whether a pack of cigarettes is genuine or illicit⁹. The only obvious circumstances in which external packaging could be useful in this respect is precisely if standardised packaging is introduced – which would of course enable easy visual identification of “cheap white” brands (ones with no licit market in the UK) and diverted licit brands (where the first destination market was in a country without standardised packaging, and the product has been diverted into illicit channels). The headlines from the latest Department of Health/Trading Standards Institute Tobacco Control Survey 2013/14, released on the 2nd July at the TSI Conference, show that the most common illicit product found by Trading Standards Officers is actually diverted licit brands which would not be in standardised packaging and would stand out for easy identification.

Number codes will develop further into an international standard system because of the requirements of Article 15 of the revised EU Tobacco Products Directive and Article 8 of the Illicit Trade Protocol, a subsidiary treaty under the WHO Framework Convention on Tobacco Control, to which the UK is a Party.

Official figures show the illegal tobacco market has in fact decreased in the UK as a result of effective enforcement over a number of years in spite of the efforts of the industry as highlighted in November 2013 by the Chair of the Public Accounts Committee who accused tobacco multinationals of deliberately oversupplying European markets, with the tobacco smuggled back into the UK.

We are therefore confident that alongside our continued efforts to tackle illicit tobacco in Blackburn with Darwen the introduction of standardised packaging will not lead to an increase in the trade in illicit tobacco in the borough.

Support for trading standards officers

Local Authority Trading Standards Officers will be tasked with enforcing the legislation. We feel it is most important for government to recognise the vital role that LA TS Officers play in public health and invests in support to enable LA Ts Officers to carry out the enforcement role effectively.

Consultation Question 3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

Blackburn with Darwen Borough Council welcomes the draft regulations and feels they are well drafted. We would like to propose the following amendments and additions to strengthen the regulations and assist enforcement once enacted:

Other Provisions regarding Packets of Hand-rolling Tobacco, Schedules 3 and 4 and Regulations 11 and 12 (page 11)

We enquire whether these provisions extend to cigarette papers (e.g. Rizla+) and filters which remain branded elsewhere. The inclusion of branded cigarette papers and filters within standardised hand-rolling tobacco pouches could continue to market a tobacco

⁹ Joossens L Smuggling, the Tobacco Industry and Plain Packs Cancer Research UK, Nov. 2012

variety, especially if sharing a brand with the hand-rolling tobacco, or if containing promotional inserts within the cigarette paper packaging. Limited edition cigarette papers or innovative designs could still be utilised by manufacturers to promote a tobacco brand. Additionally, the inclusion of branded cigarette papers within pouches could qualify as an economic advantage which promotes tobacco products. We would therefore recommend that all cigarette papers and filters included within hand-rolling tobacco pouches are also standardised, with all promotional branding removed.

Individual Cigarettes 5.6 (page 11)

We suggest that the regulations be updated to stipulate a standardised, minimum size of cigarette and tobacco packet, in order to prevent use of 'slimline' or otherwise reduced size cigarette/packaging as a form of product branding and marketing. Slim cigarettes could potentially be re-positioned as cigarillos thereby avoiding any need to comply with the regulations as currently drafted. This approach was successfully included in the Australian Plain Packaging Regulations¹⁰ and would lead to even less potential for brand variation across products.

Specialist Tobacco Products 5.9-5.12 (pages 12-13)

Whilst we note the explanation for the exclusion of specialist tobacco products from the regulations in relation to their current low rate of use by young people, use of these products are equally harmful to consumers' health. We therefore recommend that all specialist tobacco products (including, but not limited to, cigars, cigarillos, bidi's, pipes and shisha) are included within these Regulations for standardised packaging as was undertaken in Australia¹¹.

This is particularly the case in relation to niche tobacco products and shisha. In many communities in Blackburn with Darwen these products could be regarded as the "products of choice" rather than specialist, for instance within some sections of the student population. Shisha in particular, is of increasing attractiveness to young people locally in Blackburn with Darwen. Data from a 2013 Trading Standards Survey illustrates that locally 38% of 14-17 year olds have tried or experimented with shisha smoking¹². This will facilitate consistency of the legislation, and in turn, equitable protection from advertising and marketing, across all tobacco products used by smokers, including those used in BME communities with higher rates of smoking e.g. Bangladeshi males (40%)¹³.

The proposed exclusion of specialist tobacco products will potentially lead to inconsistencies when enforcing the regulations in these communities i.e. one commonly used tobacco product will be controlled, whilst another one will not. It would also create possible confusion among retailers, manufacturers and the public arising from having two different regulations for cigarettes/hand-rolling tobacco and specialist tobacco products, which in turn could undermine levels of population

¹⁰ Tobacco Plain Packaging Regulations 2011. Select Legislative Instrument 2011 No. 263, Part 2 Requirements for retail packaging of tobacco products, Division 2.1 Physical features of retail packaging

¹¹ Tobacco Plain Packaging Amendment Regulation 2012 (No. 1)1. Select Legislative Instrument 2012 No. 29

¹² Trading Standards North West (2013) *Young Persons Alcohol and Tobacco Survey 2013, North West Results*. TSNW, June 2013.

¹³ Health & Social Care Information Centre (2004) *The Health Survey for England - 2004: Health of ethnic minorities*. Headline results - <http://www.hscic.gov.uk/pubs/hse04ethnlc>

awareness and compliance. Therefore, including such products in the legislation would avoid this and facilitate ease of understanding by the public and enforcement by Trading Standards.

Extending the standardised tobacco packaging legislation to include specialist tobacco products would also prevent them from being used as flagships for cigarette brands manufactured by the same company and avert any potential switching in use from standardised cigarette or hand-rolling products to branded cigars, cigarillos, bidi's, pipes and shisha by young people in the future.

Statutory Defence (Regulation 22)

We note with concern that the statutory defence given in regulation 22 is not the widely used 'due diligence' defence found in most pieces of trading standards legislation. We believe that this will create difficulties in enforcement and cause confusion amongst retailers. We suggest that the defence given in S.39 of the Consumer Protection Act 1987 would be more appropriate.

Consultation Question 4: Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

We welcome the overall recommendations of the consultation-stage impact assessment particularly its statement that the implementation of standardised tobacco packaging is worth pursuing now and that the cost of delaying a decision is too great in public health terms.

We welcome the decision to review the policy after five years which will allow time for early impacts to become clear although it needs to be borne in mind that long term impacts such as reduced youth uptake, reductions in smoking prevalence and improvements in public health will take many years to manifest.

We do not agree with the inclusion in "*other key non-monetised costs*" of "*possible losses from a potential increase in consumption of illicit product and/or product legitimately bought outside the UK*".

We do not understand the rationale for including "*lost consumer surplus*" as an unquantified potential cost of standardised packaging. In paragraph 21, this is defined as "*the loss of the ability of those who continue to smoke to gain the intangible benefit associated with smoking a particular brand that only the packaging of that brand, as it is currently available, can produce*". We note that no attempt is made to describe the alleged "*intangible benefit*", for the very good reason, we would suggest, that it is illusory.

In economic theory, consumer surplus is usually defined as the difference between the total amount that consumers are willing and able to pay for a good or service and the total amount that they actually do pay. If, in practice, standardised packaging were to lead to some brand switching by consumers, from high price to low price cigarette brands, or if the tobacco industry were to respond to the introduction of standardised

packaging by cutting prices, this should be dealt with quickly by additional increases in tobacco taxation, above those currently required by the duty escalator.

Standardised packaging was introduced in Australia in conjunction with larger health warnings, and a sustained mass media campaign which, on a per capita basis cost the equivalent of £33.7 million a year in the UK. Australia is also committed to annual increases in tobacco taxation of 12.5 per cent over inflation each year for four years, starting in December 2013.¹⁴

The impact assessment considers the potential costs that may arise through increases in the demand for and the supply of illicit tobacco. However, we draw the consultation team's attention to:

- Chantler is not convinced that standardised packaging would increase the illicit market and found no evidence that standardised packaging is easier to counterfeit.
- Evidence from Australia which has shown there to be no increase in the illicit tobacco trade since the measure was introduced while tobacco consumption has fallen.
- The conclusion of the Home Affairs Committee inquiry into tobacco smuggling which recommended that any risks in this area could be mitigated by increasing enforcement action.
- Peto's view¹⁵ that use of specific excise taxes on tobacco (rather than ad valorem taxes), stronger tax administration, and practicable controls on organised smuggling can limit the problem. Even with some smuggling, large tax increases can substantially reduce consumption and increase revenue especially if supported by better tax enforcement.
- The impact that health-related social marketing can have on reducing smoking at population level and, in turn, reducing the illegal tobacco market, as seen in the North West, North East and South West where the illicit tobacco market share has reduced significantly.

The impact assessment also considers the costs for retailers and states that, anecdotally, the profit margins on the sale of tobacco may be relatively low.

Tobacco control policies must be pursued in parallel and not seriatim if they are to have their best possible effect in reducing prevalence rates. It is therefore important that the UK Government gives careful thought to how to maximise the public health benefits of standardised packaging, by:

- Funding a sustained mass media campaign around the time that standardised packaging comes into effect.
- Ensuring that stop smoking services are adequately funded in every locality
- Supporting enforcement through adequate funding of trading standards departments, regional partnerships against illicit trade, and work on illicit trade by HMRC and the Border Agency.

¹⁴ <http://www.abc.net.au/news/2013-08-01/government-to-raise-5-billion-from-cigarette-tax-increase/4857244>

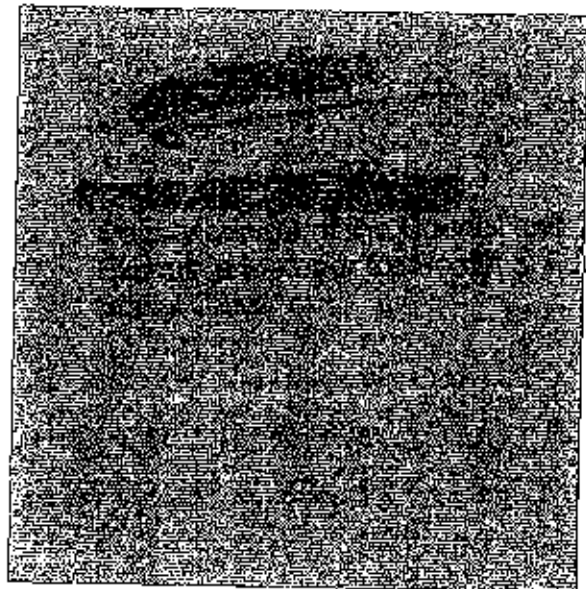
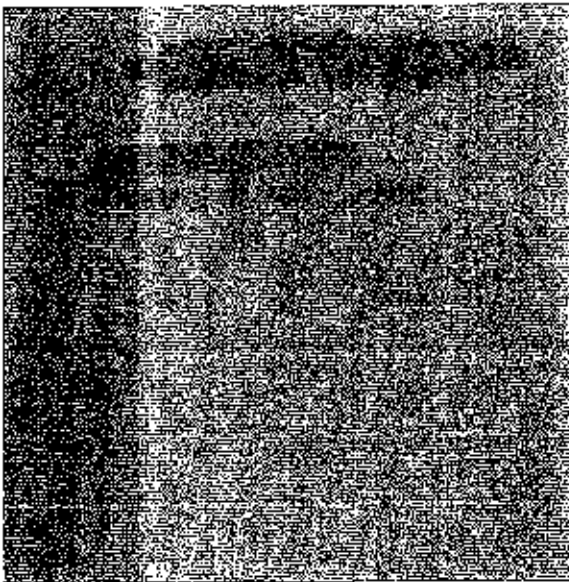
¹⁵ <http://www.nejm.org/doi/full/10.1056/NEJMr1308383>

- Considering tax rises on tobacco products over and above the existing escalator, particularly to counteract any possible negative effects from brand-shifting or price cutting, and
- Considering further levies on the industry, based on local sales data, and designed to fund stop smoking services and other tobacco control initiatives, and health costs caused by tobacco consumption.

The benefits of introducing standardised packaging identified in the impact assessment far outweigh the costs, tobacco smoking in Blackburn with Darwen costs to society of around £46.6million¹⁶ This is through factors such as lost productivity due to cigarette breaks and illness, house fires, litter. The cost to the NHS of smoking in the borough is £9.1million. Smokers in the borough spend £50.1million on tobacco products. Given that Blackburn with Darwen is the 17th most deprived local authority out of 326 in England¹⁷, these are costs which neither the local economy or local families can afford to bear. We therefore welcome the introduction of standardised packaging and the consequent reduction in smoking prevalence which has the potential to be of huge benefit to deprived communities, young people and the wider economy in the borough.

We would urge legislation to introduce standardised packaging be implemented with urgency and that this includes the recommendations for amendments suggested above.

Yours sincerely



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¹⁶ ASH(2012) The Cost of Local Tobacco Control

¹⁷ Index of Multiple Deprivation, IMD 2010



Department
of Health



Llywodraeth Cymru
Welsh Government



The Scottish
Government
Riaghaltas na h-Alba



Department of
Health, Social Services
and Public Safety
www.dhsspsni.gov.uk

Consultation on the introduction of regulations for standardised packaging of tobacco products – Response Form

a. **Are you responding (required):**

- As a member of the public (go to question b)
- As a health or social care professional (go to question b)
- On behalf of a business or as a sole trader (go to question c)
- On behalf of an organisation (go to question c)

b. **Please provide your details and contact information:**

Name of respondent (required)

Address of respondent (required):

Contact email address (required):

Now go to question f

c. **Please provide your organisation's details and contact information:**

Name of organisation (required):

Blackburn With Darwen Borough Council

Name of person providing submission (required):

[Redacted] _____

Job Title (required):

Exec Member for Health and Adult Social Care

Contact address of organisation (required):

Blackburn Town Hall
King William St, Blackburn, Blackburn with Darwen BB1 7DY

Contact email address (required):

[Redacted] _____

Is this the official response of your organisation? (required):

Yes

No

d. If you are responding on behalf of a business, what type is it?

Tobacco retailer (supermarket)

Tobacco retailer (convenience store)

Tobacco retailer (other type of shop or business)

Specialist tobacconist

Duty free shop

- Wholesale tobacco seller
- Tobacco manufacturer
- Retailer not selling tobacco products
- Pharmaceutical industry
- Business involved in the design or manufacture of packaging
- Other (please provide details below)

If other, please tell us the type of business:

e. If you are responding on behalf of an organisation, what type is it?

- NHS organisation
- Health charity/NGO (working at national level)
- Local Authority
- Local Authority Trading Standards or Regulatory Services Department
- Local tobacco control alliance
- Retail representative organisation
- Industry representative organisation
- Other type of business representative organisation
- University or research organisation
- Other (please provide details below)

If other, please tell us the type of organisation:

f. Does your response relate to (required):

United Kingdom

England only

Scotland only

Wales only

Northern Ireland only

g. Do you, or the business or organisation you represent, have any direct or indirect links to, or receive funding from the tobacco industry? (required)

No

Yes (please describe below)

If yes, please describe:

h. If you do not wish your details to be identified in the summary report of consultation responses, please tick this box

Consultation questions

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

The Chantler review clearly supports the evidence that introducing standardised packaging will lead to great public health benefit. As well as deterring young people from taking up smoking and developing a hugely harmful addiction, standardised packaging will lead to an overall reduction in smoking prevalence over time and a reduction in second hand smoke, which in turn will lead to huge population health gains.

We welcome the response of Jane Ellison MP, Minister for Public Health, to the Chantler Review. She said that the report found standardised packaging was "very likely to have a positive impact" on public health. She went on to say: "In the light of the report and the responses to the previous consultation in 2012, I am minded to proceed with introducing regulations to provide for standardised packaging" and that she wished to "proceed as swiftly as possible". She also reported that the Government's Chief Medical Officer, Dame Sally Davies, had written to her supporting the conclusions of the Chantler Review and the introduction of standardised packaging. (1)

Blackburn with Darwen Borough Council therefore fully supports the findings of the Chantler report to introduce Regulations on standardised packaging of tobacco products. We urge that these measures be introduced without further delay.

(1) House of Commons Hansard 3rd May 2014: Col 1018 et seq

2. Do you have any information, in particular any new or additional information, since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

Impact of smoking in Blackburn with Darwen

Smoking rates in Blackburn with Darwen remain amongst the highest in the country with smoking prevalence at 2012 AT 25% (2). Smoking is also a major cause of health inequalities in the borough with prevalence amongst routine and manual workers at 36% (3). Smoking rates amongst young people in Blackburn with Darwen remain higher than both the regional and national rates with 21% of 11-17 year olds claiming to smoke (4) and worryingly 29% of children surveyed said they first tried smoking when under the age of 14 (5). The proportion of young people who report having tried shisha smoking in Blackburn with Darwen is 43% (hence our strong assertion that shisha and other niche tobacco products be included in the legislation – see below).

It is estimated that smoking in Blackburn with Darwen creates annual costs to society of around £46.6million (6) . This is through factors such as lost productivity due to cigarette breaks and illness, house fires, litter. The cost to the NHS of smoking in the borough is £9.1million. Smokers in the borough spend £50.1million on tobacco products. Given that Blackburn with Darwen is the 17th most deprived local authority out of 326 in England (7) , these are costs which neither the local economy or local families can afford to bear. We therefore welcome the introduction of standardised packaging and the consequent reduction in smoking prevalence which has the potential to be of huge benefit to deprived communities, young people and the wider economy in the borough.

Illicit supply

A principal tobacco industry argument against standardised packaging has been that it will inevitably lead to an increase in the illicit tobacco trade. There is no good reason to accept this argument, since there is no plausible mechanism of action, and indeed evidence published since the 2012 consultation suggests that it is false

There is no plausible mechanism of action because all the key security features on existing packs of cigarettes would also be present on standardised packs. These include coded numbering and covert anti-counterfeit marks. Jane Ellison, Parliamentary Under-Secretary of State for Health, said in a November 2013 Parliamentary debate that: "I am grateful to those hon. Members who have made the point that if we were to adopt standardised packaging, it would not mean plain packaging. Approaches such as anti-smuggling devices could be built into standardised packaging, if we choose to go down that route." (8)

Outside packaging is in any case a very poor indicator of whether a pack of cigarettes is genuine or illicit (9) . The only obvious circumstances in which external packaging could be useful in this respect is precisely if standardised packaging is introduced – which would of course enable easy visual identification of "cheap white" brands (ones with no licit market in the UK) and diverted licit brands (where the first destination market was in a country without standardised packaging, and the product has been diverted into illicit channels). The headlines from the latest Department of Health/Trading Standards Institute Tobacco Control Survey 2013/14, released on the 2nd July at the TSI Conference, show that the most common illicit product found by Trading Standards Officers is actually diverted licit brands which would not be in standardised packaging and would stand out for easy identification.

Number codes will develop further into an international standard system because of the requirements of Article 15 of the revised EU Tobacco Products Directive and Article 8 of the Illicit Trade Protocol, a subsidiary treaty under the WHO Framework Convention on Tobacco Control, to which the UK is a Party.

Official figures show the illegal tobacco market has in fact decreased in the UK as a result of effective enforcement over a number of years in spite of the efforts of the

industry as highlighted in November 2013 by the Chair of the Public Accounts Committee who accused tobacco multinationals of deliberately oversupplying European markets, with the tobacco smuggled back into the UK.

We are therefore confident that alongside our continued efforts to tackle illicit tobacco in Blackburn with Darwen the introduction of standardised packaging will not lead to an increase in the trade in illicit tobacco in the borough.

Support for trading standards officers

Local Authority Trading Standards Officers will be tasked with enforcing the legislation. We feel it is most important for government to recognise the vital role that LA TS Officers play in public health and invests in support to enable LA Ts Officers to carry out the enforcement role effectively.

References:

- (2) Public Health England : Local Tobacco Control Profiles For England
- (3) Ibid
- (4) Trading Standards (2013). Young Persons Alcohol and Tobacco Survey 2013, North West Results. TSNW, June 2013
- (5) Ibid.
- (6) ASH(2012) The Cost of Local Tobacco Control
- (7) Index of Multiple Deprivation, IMD 2010
- (8) Hansard: backbench business debate, 7 November 2013 column 477
- (9) Joossens L. Smuggling, the Tobacco Industry and Plain Packs Cancer Research UK, Nov. 2012

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

Blackburn with Darwen Borough Council welcomes the draft regulations and feels they are well drafted. We would like to propose the following amendments and additions to strengthen the regulations and assist enforcement once enacted:

Other Provisions regarding Packets of Hand-rolling Tobacco, Schedules 3 and 4 and Regulations 11 and 12 (page 11)

We enquire whether these provisions extend to cigarette papers (e.g. Rizla+) and filters which remain branded elsewhere. The inclusion of branded cigarette papers and filters within standardised hand-rolling tobacco pouches could continue to market a tobacco variety, especially if sharing a brand with the hand-rolling tobacco, or if containing promotional inserts within the cigarette paper packaging. Limited

edition cigarette papers or innovative designs could still be utilised by manufacturers to promote a tobacco brand. Additionally, the inclusion of branded cigarette papers within pouches could qualify as an economic advantage which promotes tobacco products. We would therefore recommend that all cigarette papers and filters included within hand-rolling tobacco pouches are also standardised, with all promotional branding removed.

Individual Cigarettes 5.6 (page 11)

We suggest that the regulations be updated to stipulate a standardised, minimum size of cigarette and tobacco packet, in order to prevent use of 'slimline' or otherwise reduced size cigarette/packaging as a form of product branding and marketing. Slim cigarettes could potentially be re-positioned as cigarillos thereby avoiding any need to comply with the regulations as currently drafted. This approach was successfully included in the Australian Plain Packaging Regulations (10) and would lead to even less potential for brand variation across products.

Specialist Tobacco Products 5.9-5.12 (pages 12-13)

Whilst we note the explanation for the exclusion of specialist tobacco products from the regulations in relation to their current low rate of use by young people, use of these products are equally harmful to consumers' health. We therefore recommend that all specialist tobacco products (including, but not limited to, cigars, cigarillos, bidi's, pipes and shisha) are included within these Regulations for standardised packaging as was undertaken in Australia (11).

This is particularly the case in relation to niche tobacco products and shisha. In many communities in Blackburn with Darwen these products could be regarded as the "products of choice" rather than specialist, for instance within some sections of the student population. Shisha in particular, is of increasing attractiveness to young people locally in Blackburn with Darwen. Data from a 2013 Trading Standards Survey illustrates that locally 38% of 14-17 year olds have tried or experimented with shisha smoking (12). This will facilitate consistency of the legislation, and in turn, equitable protection from advertising and marketing, across all tobacco products used by smokers, including those used in BME communities with higher rates of smoking e.g. Bangladeshi males (40%) (13)

The proposed exclusion of specialist tobacco products will potentially lead to inconsistencies when enforcing the regulations in these communities i.e. one commonly used tobacco product will be controlled, whilst another one will not. It would also create possible confusion among retailers, manufacturers and the public arising from having two different regulations for cigarettes/hand-rolling tobacco and specialist tobacco products, which in turn could undermine levels of population awareness and compliance. Therefore, including such products in the legislation would avoid this and facilitate ease of understanding by the public and enforcement by Trading Standards.

Extending the standardised tobacco packaging legislation to include specialist tobacco products would also prevent them from being used as flagships for cigarette brands manufactured by the same company and avert any potential switching in use from standardised cigarette or hand-rolling products to branded cigars, cigarillos, bidi's, pipes and shisha by young people in the future.

Statutory Defence (Regulation 22)

We note with concern that the statutory defence given in regulation 22 is not the widely used 'due diligence' defence found in most pieces of trading standards legislation. We believe that this will create difficulties in enforcement and cause confusion amongst retailers. We suggest that the defence given in S.39 of the Consumer Protection Act 1987 would be more appropriate.

References:

- (10) Tobacco Plain Packaging Regulations 2011. Select Legislative Instrument 2011 No. 263, Part 2 Requirements for retail packaging of tobacco products, Division 2.1 Physical features of retail packaging
- (11) Tobacco Plain Packaging Amendment Regulation 2012 (No. 1)1, Select Legislative Instrument 2012 No. 29
- (12) Trading Standards North West (2013) Young Persons Alcohol and Tobacco Survey 2013, North West Results. TSNW, June 2013.
- (13) Health & Social Care Information Centre (2004) The Health Survey for England – 2004: Health of ethnic minorities. Headline results - <http://www.hscic.gov.uk/pubs/hse04ethnic>

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

We welcome the overall recommendations of the consultation-stage impact assessment particularly its statement that the implementation of standardised tobacco packaging is worth pursuing now and that the cost of delaying a decision is too great in public health terms.

We welcome the decision to review the policy after five years which will allow time for early impacts to become clear although it needs to be borne in mind that long term impacts such as reduced youth uptake, reductions in smoking prevalence and improvements in public health will take many years to manifest.

We do not agree with the inclusion in "other key non-monetised costs" of "possible losses from a potential increase in consumption of illicit product and/or product legitimately bought outside the UK".

We do not understand the rationale for including "lost consumer surplus" as an unquantified potential cost of standardised packaging. In paragraph 21, this is defined as "the loss of the ability of those who continue to smoke to gain the intangible benefit associated with smoking a particular brand that only the packaging of that brand, as it is currently available, can produce". We note that no attempt is made to describe the alleged "intangible benefit", for the very good reason, we would suggest, that it is illusory.

In economic theory, consumer surplus is usually defined as the difference between the total amount that consumers are willing and able to pay for a good or service and the total amount that they actually do pay. If, in practice, standardised packaging were to lead to some brand switching by consumers, from high price to low price cigarette brands, or if the tobacco industry were to respond to the introduction of standardised packaging by cutting prices, this should be dealt with quickly by additional increases in tobacco taxation, above those currently required by the duty escalator.

Standardised packaging was introduced in Australia in conjunction with larger health warnings, and a sustained mass media campaign which, on a per capita basis cost the equivalent of £33.7 million a year in the UK. Australia is also committed to annual increases in tobacco taxation of 12.5 per cent over inflation each year for four years, starting in December 2013. (14)

The impact assessment considers the potential costs that may arise through increases in the demand for and the supply of illicit tobacco. However, we draw the consultation team's attention to:

- Chantler is not convinced that standardised packaging would increase the illicit market and found no evidence that standardised packaging is easier to counterfeit.
- Evidence from Australia which has shown there to be no increase in the illicit tobacco trade since the measure was introduced while tobacco consumption has fallen.
- The conclusion of the Home Affairs Committee inquiry into tobacco smuggling which recommended that any risks in this area could be mitigated by increasing enforcement action.
- Peto's view (15) that use of specific excise taxes on tobacco (rather than ad valorem taxes), stronger tax administration, and practicable controls on organised smuggling can limit the problem. Even with some smuggling, large tax increases can substantially reduce consumption and increase revenue especially if supported by better tax enforcement.
- The impact that health-related social marketing can have on reducing smoking at population level and, in turn, reducing the illegal tobacco market, as seen

in the North West, North East and South West where the illicit tobacco market share has reduced significantly.

The impact assessment also considers the costs for retailers and states that, anecdotally, the profit margins on the sale of tobacco may be relatively low.

Tobacco control policies must be pursued in parallel and not seriatim if they are to have their best possible effect in reducing prevalence rates. It is therefore important that the UK Government gives careful thought to how to maximise the public health benefits of standardised packaging, by:

- Funding a sustained mass media campaign around the time that standardised packaging comes into effect.
- Ensuring that stop smoking services are adequately funded in every locality
- Supporting enforcement through adequate funding of trading standards departments, regional partnerships against illicit trade, and work on illicit trade by HMRC and the Border Agency.
- Considering tax rises on tobacco products over and above the existing escalator, particularly to counteract any possible negative effects from brand-shifting or price cutting, and
- Considering further levies on the industry, based on local sales data, and designed to fund stop smoking services and other tobacco control initiatives, and health costs caused by tobacco consumption.

The benefits of introducing standardised packaging identified in the impact assessment far outweigh the costs, tobacco smoking in Blackburn with Darwen costs to society of around £46.6million. This is through factors such as lost productivity due to cigarette breaks and illness, house fires, litter. The cost to the NHS of smoking in the borough is £9.1million. Smokers in the borough spend £50.1million on tobacco products. Given that Blackburn with Darwen is the 17th most deprived local authority out of 326 in England, these are costs which neither the local economy or local families can afford to bear. We therefore welcome the introduction of standardised packaging and the consequent reduction in smoking prevalence which has the potential to be of huge benefit to deprived communities, young people and the wider economy in the borough.

We would urge legislation to introduce standardised packaging be implemented with urgency and that this includes the recommendations for amendments suggested above.

References:

(14) <http://www.abc.net.au/news/2013-08-01/government-to-raise-5-billion-from-cigarette-tax-increase/4857244>

(15) <http://www.nejm.org/doi/full/10.1056/NEJMra1308383>

Thank you for participating in this consultation.

The Department of Health and Devolved Administrations will only contact you should we seek further information about your response.

How to get involved in the consultation

The consultation will run for 6 weeks, from 26/06/14 to 07/08/14. Responses are invited from any interested group, company or person.

Respondents are encouraged to provide their views online, but responses can be made in any of the following ways:

Completing the online form on the Department of Health website at:

[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

[1](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

- **Filling in the response form by downloading it at:**

<https://www.gov.uk/government/consultations>

- **Emailing your response to:**

TobaccoPackaging@dh.gsi.gov.uk

- **Posting your response to**

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB

EL 127

From: [REDACTED]
Sent: 05 August 2014 10:20
To: Tobacco Packaging
Subject: Packaging of Cigarettes

Disapprove of Standardisation of Packaging - during the second World War when cigarettes could not be sold in individual packets Manufacturers produced them in cartons containing 50 or 100 cigarettes and retailers had to supply them loose - this did not have the slightest effect of reducing the number sold. Standardisation would affect many Manufacturers and thousands of employees and at considerable cost with little or no gain whatsoever.

This email was received from the Internet and scanned by the Government Secure Intranet anti-virus service supplied by Vodafone in partnership with Symantec.

DH users see Computer virus guidance on Delphi under Security in DH, for further details. In case of problems, please call the IT support helpdesk.

EL 128

Sent:
To:
Subject:

I am against this proposal:

1. What about the principle of freedom of choice?
2. It would offer greater opportunities for illegal imports and consequent loss of revenue.

This email was received from the Internet and scanned by the Government Secure Intranet anti-virus service supplied by Vodafone in partnership with Symantec.

DH users see Computer virus guidance on Delphi under Security in DH, for further details. In case of problems, please call the IT support helpdesk.

EL 129

From: [REDACTED]
Sent: [REDACTED]
To: Tobacco Packaging
Subject: Against standardised packaging

[REDACTED] x-employee of Imperial Tobacco for 22 years.
I am against the proposal of standardised packaging.

This email was received from the Internet and scanned by the Government Secure Intranet anti-virus service supplied by Vodafone in partnership with Symantec.

DH users see Computer virus guidance on Delphi under Security in DH, for further details. In case of problems, please call the IT support helpdesk.

EL 180

Sent:

To:

Tobacco Packaging

I am very concerned that this government has published draft regulations on standard packaging of tobacco products.

There is no credible evidence whatsoever that it will achieve the Department of Health's objectives. Indeed in Australia, the only country to implemented this so far, smoking prevalence has not increased whilst the illicit trade has has risen by 20% since its introduction.

This is yet another example of unnecessary interference by government on a matter on which people are quite able to make up their own minds. All three major parties make this error and will drive more and more voters to vote UKIP. I am fed up with this nanny state, which is increasingly becoming worse as a consequence of our membership of the EU. It seems that this yet another case, where smokers and the tobacco industry in general, will suffer because of interference by the anti-smoking lobby. Current measures have already gone too far.

There is talk of financial burden that smokers place on the NHS. If smoking does shorten life expectancy as is claimed, then there will be a more than counter balancing saving in pension costs. It is strange that within Europe, those countries with the higher percentages of smokers, like France, also have higher life expectancy than the UK. If the government is really serious about the health of her pollol, then they should perhaps concentrate on other factors which contribute positively to the nation's health and well being. Perhaps we should be encouraged to drink more red wine.

This government should be concentrating now on coming out of the EU and not wait until 2017. They should not be pandering to the nanny state lobby.

Kind regards

and scanned by the Government Secure Intranet anti-virus service
Symantec.

DH users see Computer virus guidance on Delphi under Security in DH, for further details. In case of problems, please call the IT support helpdesk.

EL 131

From: [REDACTED]
Sent: [REDACTED]
To: [REDACTED]
Subject: Standardised Packaging of Tobacco Products

Dear Sirs,

In relation to the current consultation process on the above issue, I wish to register **my objection to the proposal** for standardised packaging as there appears to be little (if any) concrete evidence that such a change to the present situation would have any reducing effect upon the consumption of tobacco products. The only country to have implemen an initiative - Australia - has seen smoking habits increase due to the attraction of the illicit trade (i.e. unregulated products, tax revenue avoidance, cheaper-priced products). Further research needs to be undertaken to provide evidence and establish the benefits claimed of standardised packaging before the proposal is considered further.

[REDACTED] Internet and scanned by the Government Secure Intranet anti-virus service supplied by Vodafone in partnership with Symantec.

DH users see Computer virus guidance on Delphi under Security in DH, for further details. In case of problems, please call the IT support helpdesk.

EL 132

From:
Sent:
To:
Cc:
Subject:

05 August 2014, 12:20

Good afternoon.

I am a non-smoker; I have NEVER smoked. I was delighted when smoking at work and in public places was banned.

However, I am AGAINST standardised packaging for tobacco products for the following reasons:

1. I believe it will do very little, if anything, to reduce smoking or to deter non-smokers, especially, children from taking up the habit.
2. It appears illicit trade in tobacco products in Australia has increased by 20% since similar measures were introduced. This has a two-fold effect:
 - a. the Exchequer loses revenue on consumption that will happen anyway
 - b. the risk that consumers will buy products contaminated with various harmful ingredients will inevitably increase.

I should like to see the Government, instead of introducing standardised packaging, take action such as:

1. Put further resources into identifying illicit trade and those responsible. Increasing taxes may be counter-productive as such steps only serve to make the trade more profitable for such people.
2. Increase penalties for all those convicted of taking part in any illicit trade of tobacco products.
3. Beef up health warnings on packaging and ensure they are changed regularly in order to ensure their impact does not fade.

There are better brains than mine that could be brought to bear to identify deterrents that I feel sure would be more effective than standardised packaging.

Regards,





Department
of Health



Llywodraeth Cymru
Welsh Government



The Scottish
Government
Riaghaltas na h-Alba



Department of
Health, Social Services
and Public Safety
www.dhssosni.gov.uk

Consultation on the introduction of regulations for standardised packaging of tobacco products – Response Form

a. Are you responding (required):

- As a member of the public (go to question b)
- As a health or social care professional (go to question b)
- On behalf of a business or as a sole trader (go to question c)
- On behalf of an organisation (go to question c)

b. Please provide your details and contact information:

Name of respondent (required)

Address of respondent (required):

Contact email address (required):

Now go to question f

c. Please provide your organisation's details and contact information:

Name of organisation (required):

Name of person providing submission (required):

[Redacted] _____

Job Title (required):

Chair BTS Tobacco Specialist Advisory Group & Consultant Respiratory Intensivist
UHL

Contact address of organisation (required):

British Thoracic Society, 17 Doughty Street, London WC1N 2PL

Contact email address (required):

[Redacted] _____

Is this the official response of your organisation? (required):

Yes

No

d. If you are responding on behalf of a business, what type is it?

Tobacco retailer (supermarket)

Tobacco retailer (convenience store)

Tobacco retailer (other type of shop or business)

Specialist tobacconist

Duty free shop

- Wholesale tobacco seller
- Tobacco manufacturer
- Retailer not selling tobacco products
- Pharmaceutical industry
- Business involved in the design or manufacture of packaging
- Other (please provide details below)

If other, please tell us the type of business:

e) If you are responding on behalf of an organisation, what type is it?

- NHS organisation
- Health charity/NGO (working at national level)
- Local Authority
- Local Authority Trading Standards or Regulatory Services Department
- Local tobacco control alliance
- Retail representative organisation
- Industry representative organisation
- Other type of business representative organisation
- University or research organisation
- Other (please provide details below)

If other, please tell us the type of organisation:

f. Does your response relate to (required):

United Kingdom

England only

Scotland only

Wales only

Northern Ireland only

g. Do you, or the business or organisation you represent, have any direct or indirect links to, or receive funding from the tobacco industry? (required)

No

Yes (please describe below)

If yes, please describe:

h. If you do not wish your details to be identified in the summary report of consultation responses, please tick this box

Consultation questions

1. Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

The British Thoracic Society (BTS) objectives are to develop and promote best evidenced-based standards of care for patients with respiratory and associated disorders; to disseminate knowledge and learning about their causes, prevention and treatment and to raise the profile and provide information about prevention of respiratory disease. To support and develop those who provide that care.

We are a registered charity and a company limited by guarantee. Our activities cover all of the UK. We seek to work collaboratively with others and maintain a global outlook. On 1st August 2014 we had 2,923 members. These are doctors, nurses, respiratory physiotherapists, scientists and other professionals with a respiratory interest.

- a) The BTS fully support the view from the Chantler Review that standardised packaging will lead to a reduction in smoking uptake in children and overtime together with other interventions, that this will lead to a reduction in smoking incidence and prevalence and thus improve public health especially lung health. The report's conclusions are thoroughly researched and fair
- b) Two of the key arguments of opponents to standardised packaging are refuted in the Chantler Review. Firstly, that standardised packaging will lead to price reductions due to inability to compete on branding means, and subsequent increased appeal – there has been no evidence of this in Australia, and high prices due to taxation will continue to make cost a major deterrent. Secondly, that there will be an increase in counterfeit cigarettes, but again, the Chantler Review found no evidence of this in Australia, and it is unlikely that young people will come across more of these as a result of the change.
- c) The argument that we should wait for further evidence from Australia can be countered by the fact that over 200,000 young people start smoking every year, half of all smokers will die from a smoking-related illness, and it is imperative that this is addressed as soon as possible to ensure more people are not harmed by continued inaction.
- d) We welcome and support the views from Professor Hammond(1) report for the Irish Department of Health, Jane Ellison MP Minister for Public Health and Dame Sally Davies, Chief Medical Officer concurring with the conclusions of the Chantler review(2)
- e) We therefore consider that the case for standardised packaging has been made, and that the Government should lay Regulations on standardised packaging, under Section 94 of the Children and Families Act, before Parliament as soon as possible
- f) The Government should resist efforts by the tobacco industry and its surrogates to delay decision-making and laying of the regulations before Parliament. As outlined below, there is now strong evidence that the industry's arguments are either weak or without foundation (3,4,5) while their data on illicit tobacco have been shown to be highly misleading(6)

g) The BTS supports the submission of the Action on Smoking and Health submission on this consultation in addition to the points above.

References

1. Hammond, D. Standardized Packaging of Tobacco Products. Evidence Review. Prepared on behalf of the Irish Department of Health. March 2014.
2. Hansard. HoC column 1018 et seq. (3rd April 2014)
3. Evans-Reeves, K.A., Hatchard, J. Gilmore, A. 'It will lead to negative unintended consequences': An evaluation of the relevance, quality and transparency of evidence submitted by the tobacco industry to the UK Consultation on standardised packaging. March 2014. European Conference on Tobacco or Health.
4. Ulucanlar S, Fooks GJ, Hatchard JL, et al. Representation and Misrepresentation of Scientific Evidence in Contemporary Tobacco Regulation: A Review of Tobacco Industry Submissions to the UK Government Consultation on Standardised Packaging PLoS Med. 2014; (3):e1001629.
5. Hatchard JL, Fooks GJ, Evans-Reeves KA, et al. A critical evaluation of the volume, relevance and quality of evidence submitted by the tobacco industry to oppose standardised packaging of tobacco products. BMJ Open. 2014; (2).
6. Gilmore A, Rowell A, Gallus S, Lugo A, Joossens L, Sims M.. Towards a greater understanding of the illicit tobacco trade in Europe: A review of the PMI funded "Project Star" report. Tobacco Control Published Online

2. Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging that you wish to bring to our attention?

a) Figures from Australia a year after the implementation of standardised packaging have shown the prevalence of smoking to have fallen by 15% in the second half of 2013, from 15.1% to 12.8 %. These figures come from the Australian National Drugs Strategy Households survey(7). This survey also found that fewer young people were taking up smoking with the proportion of young people who had never smoked rose from 72% to 77%.

b) The Advertising Standards Authority on July 30th 2014 has ruled against Gallaher, the UK trading company of Japan Tobacco International for running a series of adverts in April 2013 against the introduction of standardised packaging. In its ruling the authority said the advertisement was 'likely to mislead and should not be run again'(8). This is another example of the Tobacco industry trying to mislead the public on the impact of standardised packaging.

c) Plain packaging forms part of a much wider tobacco control policy that the BTS advocates –in the BTS position statement on Tobacco 2014 (9)

d) The introduction of standardised of packaging needs to be part of a comprehensive strategy that includes mass media campaign. The current Department of Health Tobacco Control Plan for England is until the end of 2015 and will need to be refreshed for the period 2016-2020, which will be the period when

standardised packaging comes into effect. It will be important that this strategy capitalises on the opportunity and maximises the public health benefit.

e) There is no robust data to support the theory that standardised packaging will increase illicit tobacco that has been part of the tobacco industries' public relations campaign to prevent this policy(10). Since Australia launched the standardised packaging, research in Victoria has found that there has been no increase in the availability of illicit tobacco(11).

f) The research and outcomes from the Australian implementation of standardised packaging has in the main been positive. Young et al reported when the strategy was implemented in 2012, there was a sharp increase in smoking cessation referrals(12). Guillamunier et al (2014) thematic analysis demonstrated smokers perception of quality and taste of cigarettes reduced after implementation(13). Zacher et al (2014) supported the de-normalisation argument with a reduction of smokers displaying their packets in public especially where children were present(14)

g) The BTS supports the submission of the Action on Smoking and Health submission on this consultation in addition to the points above.

References:

7. <http://www.aihw.gov.au/alcohol-and-other-drugs/ndshs/2013/data-and-references/>
8. <http://www.bmj.com/content/349/bmj.g4900>
9. <https://www.brit-thoracic.org.uk/document-library/about-bts/documents/bts-position-statement-on-tobacco-june-2014>
10. Rowell et al (2014) Tobacco industry manipulation of data on and press coverage of the illicit tobacco trade in the UK
11. Scollo et al (2014) Availability of illicit tobacco in small retail outlets before and after the implementation of Australian packaging legislation
12. Young, M et al (2014) Association between tobacco plain packaging and Quit-line calls: a population based interpreted time-series analysis: Medical Journal of Australia 200:29-32
13. Guillamunier, A et al (2014) Tobacco health warning messages on plain cigarette packs and television campaigns: a qualitative study with Australian socioeconomically disadvantaged smokers: Health Education Research
14. Zacher et al (2014) Personal tobacco pack display before and after the introduction of plain packaging with large pictorial health warnings in Australia: an observational study of outdoor café strips: Addiction 109

3. Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations as drafted?

BTS welcome the draft regulations and support the legislation of these with considerations.

- a) The regulations should apply to all tobacco products including cigars and cigarillos- failing to do so will give the impression these are less harmful.
- b) Change of the wording to "must contain 20 cigarettes" will prevent the promotion of adding an extra cigarette to packs (e.g.: 20 +1 free), this will be a lesson learnt from the Australian legislation of prohibiting packs of less than 20.
- c) The regulation states that cigarette papers can be included inside packets of hand-rolling tobacco and yet makes no regulation as to the colour/ texture/ printing of logos on the papers themselves. As the "Smoking, drinking and drug use among young people in England in 2012 found that adolescents have a particularly high rate of smoking roll-ups(15) this is a potential area where promotion and branding could be used to increase the attractiveness of a brand of rolling tobacco, particularly when regulations on all other areas of cigarette appearance are stringent.
- d) The BTS supports the submission of the Action on Smoking and Health submission on this consultation in addition to the points above.

References

15. <http://www.hscic.gov.uk/catalogue/PUB11334/smok-drin-drug-youn-peop-eng-2012-repo.pdf>

4. Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

BTS has over 2,900 members in respiratory medicine and allied health professional and are part of the Smokefree Action Coalition which is supported by over 250 organisations. The BTS supports the submission of the Action on Smoking and Health submission on this consultation.

Thank you for participating in this consultation.

The Department of Health and Devolved Administrations will only contact you should we seek further information about your response.

How to get involved in the consultation

The consultation will run for 6 weeks, from 26/06/14 to 07/08/14. Responses are invited from any interested group, company or person.

Respondents are encouraged to provide their views online, but responses can be made in any of the following ways:

Completing the online form on the Department of Health website at:

[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

[1](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products-1)

- **Filling in the response form by downloading it at:**

<https://www.gov.uk/government/consultations>

- **Emailing your response to:**

TobaccoPackaging@dh.gsi.gov.uk

- **Posting your response to**

Department of Health
Standardised Packaging Tobacco Consultation
PO Box 1126
CANTERBURY
CT1 9NB



tobacco free futures

Consultation on the introduction of regulations for standardised packaging of tobacco products

Response from Tobacco Free Futures

1. Tobacco Free Futures is a North West based social enterprise, and our mission is to Make Smoking History for Children. We are leading experts in tackling tobacco and our vision is to change the way children, young people and adults think about tobacco and help future generations to be tobacco free.

There is strong support for standardised tobacco packaging in the North West.

During the 2012 consultation more than 63,000 public responses from the North West were submitted to the consultation, and 23 local authorities in the North West called for tobacco packets to be standardised.

Consultation Question 1: Do you have any observations about the report of the Chantler Review that you wish to bring to our attention?

2. Tobacco Free Futures believes that standardised packaging should be introduced if the available evidence supports the conclusion that the introduction of standardised packaging would be likely to:
 - Lead to a reduction in the numbers of young people starting to consume tobacco; and
 - Together with other policy initiatives, contribute significantly over time to a reduction in smoking prevalence rates
3. Sir Cyril Chantler stated in his covering letter to the Secretary of State: *"it is in my view highly likely that standardised packaging would serve to reduce the rate of children taking up smoking" and "the body of evidence shows that standardised packaging, in conjunction with the current tobacco control regime, is very likely to lead to a modest but important reduction over time in the uptake and prevalence and thus have a positive impact on public health."*
4. A report by Professor David Hammond for the Irish Department of Health¹ backs up Sir Cyril Chantler's view. He concluded that,

"Overall, the existing evidence on plain (standardised) packaging supports four primary conclusions:

 - 1) *Plain packaging will reduce smoking initiation among youth and young adults.*
 - 2) *Plain packaging will promote smoking cessation among established smokers.*
 - 3) *Plain packaging will support former smokers to remain abstinent.*
 - 4) *Plain packaging will help to denormalise tobacco use."*

5. We welcome the response of Jane Ellison MP, Minister for Public Health, to the Chantler Review. She said that the report found standardised packaging was *"very likely to have a positive impact"* on public health. She went on to say: *"In the light of the report and the responses to the previous consultation in 2012, I am minded to proceed with introducing regulations to provide for standardised packaging"* and that she wished to *"proceed as swiftly as possible"*. She also reported that the Government's Chief Medical Officer, Dame Sally Davies, had written to her supporting the conclusions of the Chantler Review and the introduction of standardised packaging.²
6. We therefore consider that the case for standardised packaging has been made, and that the Government should lay Regulations on standardised packaging, under Section 94 of the Children and Families Act, before Parliament as soon as possible. Given that notification to the European Union of the intended Regulations will take six months, there is now only a short time available to do this before the 2015 General Election.
7. The Government should resist efforts by the tobacco industry and its surrogates to delay decision-making and laying of the regulations before Parliament. As outlined below, there is now strong evidence that the industry's arguments are either weak or without foundation^{3 4 5} while their data on illicit have been shown to be highly misleading.⁶
8. Smoking remains the major preventable cause of premature death and disease in the UK, with half of all long term smokers dying from their addiction.⁷
9. Smoking is the leading cause of health inequalities. The richest smokers die earlier than the poorest non-smokers as found in Gruer et al (2009)⁸ who concluded that the scope for reducing health inequalities related to social position is limited unless many smokers in lower social positions stop smoking.
10. Tobacco use is the leading cause of premature death and preventable disease. In the North West, 13,000 people die each year from smoking related illnesses – that's 35 deaths every day.⁹
11. Around 18,000 children in the North West are known to try smoking every year.¹⁰ We need to do all we can to ensure that this number reduces to negligible levels.
12. 83% of people in the North West who try smoking do so before the age of 14.¹¹

Consultation Question 2: Do you have any information, in particular any new or additional information since the 2012 consultation, relating to the wider aspects of standardised packaging, that you wish to bring to our attention?

Standardised packaging needs to be part of a comprehensive strategy

13. Tobacco control policies must be pursued in parallel and not seriatim if they are to have their best possible effect in reducing prevalence rates. The optimum date for implementation of standard packaging would be May 2016 at the same time as implementation of the EU Tobacco Products Directive (TPD), which includes updated larger health warnings and graphic warnings on the front of the packs.

14. Standardised packaging was introduced in Australia as part of a comprehensive strategy. This included larger health warnings (75% rather than the 65% in the TPD), mass media campaigns and reducing affordability by increasing taxation. Australia is committed to annual increases in tobacco taxation of 12.5 per cent over inflation each year for four years, starting in December 2013¹², a far higher increase than the current escalator in place in the UK which is only 2% above inflation. The Australian strategy has been very successful with a significant increase in calls to the quit line, and a significant decline in tobacco consumption immediately following implementation of plain packaging.¹³
15. The DH Tobacco Control Plan for England runs until the end of 2015 and needs to be renewed and refreshed for the period 2016-2020, the period when standardised packaging will be implemented. It is important in updating its tobacco strategy that the Government gives careful thought to how to maximise the public health benefits of the implementation of standardised packaging, by, for example:
- Increasing funding for sustained mass media campaigns in advance of standardised packaging coming into effect;
 - making stop smoking services mandatory and ensuring delivery to a high quality standard;
 - supporting enforcement through adequate funding of trading standards departments, regional partnerships against illicit trade, and work on illicit trade by HMRC and the UK Border Force;
 - introducing tax rises on tobacco products over and above the existing escalator, particularly to counteract any possible negative effects from brand-shifting or price cutting;
 - restructuring taxation to minimise the variance in tax between handrolled tobacco and manufactured cigarettes and the taxation between different price categories of manufactured cigarettes; and
 - introducing further levies on the industry to fund stop smoking services and other tobacco control initiatives, and to meet health costs caused by tobacco consumption.

Support for standardised packaging in the North West

16. Support for standardised packaging is at an all-time high with 64% of people in the North West in favour and only 10% opposing¹⁴. Nationally, public support is equally high, and perhaps surprisingly more people that smoke support standard packs (32%) than oppose (30%) with the remainder ambivalent or undecided. Our experience of talking to smokers on this issue suggests most people that smoke are very keen for their children not to start.
17. 81% of young people in the North West think that the Government should do more to tackle smoking.¹⁵

Impact of standardised packaging on the illicit market

18. A principal tobacco industry argument against standardised packaging has been that the illicit trade in tobacco in the UK is on the increase and that plain packaging will inevitably exacerbate this trend. There is no good reason to accept either of these arguments. With respect to the first argument tobacco industry data purporting to show an increase in illicit is misleading, with respect to the second there is no plausible mechanism of action by which plain standardised packaging would lead to

an increase in the size of the illicit market, and indeed evidence published since the 2012 consultation suggests that it is false.

19. Research and leaked industry documents have now established that claims by industry that rates of illicit tobacco use are increasing markedly in the UK and will increase further following standardised packaging should be seen simply as part of the tobacco industry's public relations campaign to prevent the policy.¹⁶ Analysis shows that the number of press articles citing industry data on illicit increased suddenly once standardised packaging emerged on the policy agenda, that industry data significantly exaggerate the scale of illicit and claim trends are upwards when independent data show the opposite.¹⁶ Further, evidence cited in industry submissions to support its claims that standard packaging will increase illicit has been shown to be very poor quality and effectively manufactured by the industry to support its case – all such 'evidence' was produced by industry or those funded by it and none was peer-reviewed.³
20. Official figures show the illegal tobacco market has in fact decreased in the UK as a result of effective enforcement over a number of years in spite of the efforts of the industry as highlighted in November 2013 by the Chair of the Public Accounts Committee who accused tobacco multinationals of deliberately oversupplying European markets, with the tobacco smuggled back into the UK. Committee Chair Margaret Hodge said:

"The supply of some brands of hand-rolling tobacco to some countries in 2011 exceeded legitimate demand by 240 per cent. HMRC must be more assertive with these manufactures. So far it has not fined a single one of them."
21. Part of this strategy has been to fund a growing number of third parties – organisations and individuals (notably ex-policemen) - who provide a more credible voice in debates, produce reports which are presented as independent while reinforcing industry messages. Yet the links to industry have rarely been disclosed.³
17
22. More broadly, growing evidence from a number of jurisdictions now suggests that tobacco company commissioned data and evidence on illicit, including that published by leading accountancy firms, will tend to over-estimate the scale of the illicit trade, exaggerate the upward trend (either by exaggerating current levels or by revising historical figures downwards) and mis-represent the nature of the trade in order to down-play the extent of tobacco industry involvement.^{18 19 20 21 22 23 24}
23. In a public climb-down following criticism of its previous data which suggested that in 2012 rates of illicit in the UK had suddenly increased countering previous trends, KPMG's latest report, this time commissioned by all four transnational tobacco companies, has revised its illicit estimate for the UK illicit trade downwards stating that *"alternative data sources suggest this [the 2012 estimate] may have overstated non-domestic incidence for the full year"*²⁵ They claim that additional data which were not previously available to them *"suggest there has been a more gradual decline from 2011 to 2013"* (pages 300-302). It is a moot point whether these figures would have been revised without academic criticism of KPMG's data for industry both in the UK¹⁶ and Australia²⁶ and this revision undermines the industry's public claims about illicit.

24. Growing evidence also suggests that the tobacco manufacturers continue to facilitate the illicit trade in their products and at best are failing to control their supply chains.²⁷
¹⁸ In October last year the Chair of the Public Accounts Committee said that: *"The supply of some brands of hand-rolling tobacco to some countries in 2011 exceeded legitimate demand by 240%. HMRC must be more assertive with these manufacturers. So far it has not fined a single one of them."*²⁸
25. There is no plausible mechanism of action because all the key security features on existing packs of cigarettes would also be present on standardised packs. These include coded numbering and covert anti-counterfeit marks. Jane Ellison, Parliamentary Under-Secretary of State for Health, said in a November 2013 Parliamentary debate that: *"I am grateful to those hon. Members who have made the point that if we were to adopt standardised packaging, it would not mean plain packaging. Approaches such as anti-smuggling devices could be built into standardised packaging, if we choose to go down that route."*²⁹
26. Article 15 of the Tobacco Products Directive states that: *"Member States shall ensure that all unit packets of tobacco products are marked with a unique identifier. In order to ensure the integrity of the unique identifier, it shall be irremovably printed or affixed, indelible and not hidden or interrupted in any form, including through tax stamps or price marks, or by the opening of the unit packet."*³⁰
27. Outside packaging is in any case a very poor indicator of whether a pack of cigarettes is genuine or illicit³¹. The only obvious circumstances in which external packaging could be useful in this respect is precisely if standardised packaging is introduced – which would of course enable easy visual identification of "cheap white" brands (ones with no licit market in the UK) and diverted licit brands (where the first destination market was in a country without standardised packaging, and the product has been diverted into illicit channels). The headlines from the latest Department of Health/Trading Standards Institute Tobacco Control Survey 2013/14, released on the 2nd July at the TSI Conference, show that the most common illicit product found by Trading Standards Officers is actually diverted licit brands which would not be in standardised packaging and would stand out for easy identification.
28. Number codes will develop further into an international standard system because of the requirements of Article 15 of the revised EU Tobacco Products Directive and Article 8 of the Illicit Trade Protocol, a subsidiary treaty under the WHO Framework Convention on Tobacco Control, to which the UK is a Party.
29. Andrew Leggett, Deputy Director for Tobacco and Alcohol Strategy at HM Revenue and Customs has said about standardised packaging that *"we're very doubtful that it would have a material effect [on counterfeiting and the illicit trade in tobacco]"*.³² This conclusion was supported by the House of Commons Home Affairs Select Committee, in its report on the illicit tobacco trade published in June 2014. The Committee reported that: *"We believe that the decision on standardised packaging should be driven by health reasons and the imperative need to reduce the numbers of young people who start smoking. We note the statement of Sir Cyril Chantler to the effect that he was not convinced that standardised packaging would bring about an increase in the illicit market; even if this were the case, we believe that the proper response would be a more vigorous effort on enforcement rather than any lessening in the Government's drive towards introducing standardised packaging."*³³

Evidence from Australia on Illicit Tobacco

30. The tobacco industry has repeatedly claimed that the level of illicit trade in Australia has increased since, and as a result of, the introduction of standardised packaging. For example, BAT told investors in March 2014 that total illicit activity in Australia had risen by more than 30 per cent since the introduction of standardised packaging.³⁴
31. These claims were examined during the Chantler Review and shown to be unsupported, a fact that was effectively admitted during Review meetings with representatives of the tobacco industry in Australia.³⁵ The Australian Government and customs officials have also rejected tobacco industry claims that illicit trade in Australia has risen since the introduction of standardised packaging.³⁶ In March 2014 the *Sydney Morning Herald* reported that there had been only one seizure of counterfeit plain packs since December 2012.³⁷
32. In response to this article, the paper was contacted by Sonia Stewart, the former Head of Corporate Affairs & Legal for Imperial Tobacco Australia, who has now left the industry. In her job at IT Australia she had "commented numerous times in the media during 2011-2013 about the anticipated impact of plain packaging", claiming for example that *"the legislation will make the counterfeiters' job both cheaper and easier by mandating exactly how a pack must look"*.³⁸ She wrote to the paper that *"based on these figures from Australian Customs authorities, there doesn't appear to be any evidence that plain packaging itself has caused an increase in tobacco smuggling."* She added: *"Imperial Tobacco did expect to see an increase in tobacco smuggling because of plain packaging, but based on the figures from Australian Customs it looks like those predictions were simply wrong."*³⁹
33. Research in Victoria, Australia found there was no increase in the availability of illicit tobacco in small retail outlets after the implementation of standardised packaging,⁴⁰ and despite predictions by the tobacco industry of a marked increase in the sale of counterfeit cigarettes, post-legislation in 2013 only 2.6% of cigarette smokers reported having purchased one or more packets in non-compliant packaging in the past three months.⁴¹

Other Evidence from Australia

34. Young JM et al, University of New South Wales and Cancer Institute New South Wales, reported in January 2014 that the introduction of standardised packaging in Australia in 2012 was associated with a sharp rise in the number of calls to the New South Wales Quit line service.⁴² Statistical modelling to screen out the impact of other factors on the number of calls (such as health advertising campaigns, changes in price, etc.) suggested that the number of calls to Quit line NSW rose by 75% from the week before standardised packs were first introduced in the Australian market to four weeks later and a significant increase in calls was sustained over time.
35. Guillaumier A et al, University of Newcastle, Australia, reported in June 2014 that 'following the implementation of plain packaging, perceptions of the quality and taste of cigarettes have changed'. Thematic analysis of six focus groups with 51 participants revealed some participants reporting reductions in product quality. For example, 'I've noticed the reduction in the grading of the tobacco.'⁴³

36. Tobacco retailers in the UK have suggested that the introduction of standardised packaging means that it will take longer to serve customers and so convenience stores will lose custom. As the Impact Assessment concludes there is no evidence at all that this is the case from the experience in Australia; indeed transaction times have tended to decline post implementation not increase. Most recently, research published at the end of May, which may not have been taken into account in the IA, reported that the claim that plain packaging would negatively impact on small tobacco retailers by making it harder to locate and retrieve cigarette packs, thereby increasing transaction times, has not eventuated in Australia.^{44 45}

Other evidence from the UK

37. Tobacco companies are spending considerable efforts in opposing any moves towards the introduction of standardised tobacco packaging. In the North West, JTI entered into a partnership arrangement with the Manchester Evening News which featured three weeks' worth of JTI-funded advertising on illegal tobacco and published a series of articles generated by the company. Tobacco Free Futures issued a written response to the Manchester Evening News, and a response was received. The response was unwilling to admit to entering a partnership with JTI or agree to the inclusion of a more balanced article which would have countered the misinformation provided by JTI and outline that the illicit market is on a sustained long-term decline, that there is no evidence that standardised packaging would lead to an increase in the illicit trade and that all tobacco – legal or illegal – will kill one in two of its long term users.

38. A briefing on the tobacco industry and their tactics in using illegal tobacco arguments to oppose tobacco control measures can be found here: <http://www.illegal-tobacco.co.uk/wp-content/uploads/2014/03/illegal-Tobacco-The-facts-about-the-Tobacco-Industry-V3-28-05-14.pdf>

39. The tobacco industry has repeatedly claimed that the level of illicit trade in Australia has increased since, and as a result of, the introduction of standardised packaging. For example, BAT told investors in March 2014 that total illicit activity in Australia had risen by more than 30 per cent since the introduction of standardised packaging introduction.⁴⁶

40. Comprehensive regional illicit tobacco programmes change the social norms around illicit tobacco, reducing the size of the illicit tobacco market, reducing the proportion of smokers buying illicit tobacco and increasing the public's likelihood to report intelligence. For example, in the North West between 2009 and 2011, following partnership development, two bursts of social marketing activity and enhanced intelligence and enforcement models:

- The number of smokers admitting that they bought illegal tobacco dropped from 19% to 17%.
- The number of 16 to 24 year-old smokers admitting that they bought illegal tobacco dropped from 28% to 23%.
- A willingness to report trading increased from 26% to 30% and remained high (74%) if selling to children.
- The proportion of adults who buy illicit tobacco believing that 'everybody does it' shrunk from 65% in 2009 to 53% in 2011.

41. A major Trading Standards survey in the North West of England has shown that fewer young children are accessing illicit tobacco products. Between 2011 and 2013 there were reductions in:

- The proportion of young people who have bought cigarettes from sellers such as neighbours, car boots and ice-cream vans from 42% to 27%.
- The proportion of young people who have bought fake cigarettes, down from 28% to 22%.
- The proportion of young smokers who have ever bought single cigarettes, from 67% to 49%⁴⁷.

Consultation Question 3: Do you have any comments on the draft regulations, including anything you want to draw to our attention on the practicalities of implementing the regulations, as drafted?

42. Tobacco Free Futures welcome the regulations and feel they are well drafted, which we consider, with only minor changes, to be fit for purpose. The changes we recommend are set out below.

43. We do have some suggestions to strengthen the regulations to achieve the desired outcome of protecting children and ensure they are possible to enforce once enacted.

44. The draft regulations apply only to cigarettes and hand rolling tobacco which can be used after retail sale for making cigarettes. In our response to the original consultation on standardised packaging, TFF said "all tobacco products should be treated in the same way to protect the health of ALL communities" and our view has not changed. We believe that the regulations should apply to all tobacco products, including pipe tobacco, cigars, cigarillos, blunts and other niche products and shisha. The latter in particular is of increasing attractiveness to young people, with 20% of 14 to 17 year olds reporting trying it in the Trading Standards North West Survey of 18,000 young people in Spring 2013.

45. The draft regulations do not propose any requirement relating to the size or length of cigarettes. Slim cigarettes could potentially be re-positioned as cigarillos thereby avoiding any need to comply with the regulations as currently drafted. We would recommend stipulating a minimum size of cigarettes.

46. The draft regulations do not propose requirements relating to the size of cigarette packets. We recommend that as in Australia, the regulations specify the dimensions of the pack to prevent manufacturers using this as a method of differentiation. While this differentiation may be pleasing to manufacturers, it is likely to cause difficulty for retailers in stocking products also.

47. The draft regulations at 10.3 (e) prohibits packaging that resembles a food or cosmetic container. This could lead to confusion as many perfume products for example, are packaged in cuboid boxes. Specifying the dimensions of the pack would remove the need for this clause.

48. Regulation 4(7) with regards to pack quantity, while prohibiting packs containing less than 20 cigarettes allows manufacturers to compete on number by including more than 20 cigarettes. In Australia this has been a tactic used by the industry and extra cigarettes have been introduced into some brands for the same price as a promotional tool. Such extra free cigarettes are known colloquially as "loosies" and Imperial Tobacco has gone further and registered a brand name called "Peter Stuyvesant + Loose" and made 21 cigarettes to a pack. One way of preventing this would be by mandating that packs 'must contain 20 cigarettes' to prohibit additional cigarettes being included as a promotional tool
49. The requirements only apply to tobacco packaging at retail level. We feel it would be preferable to apply also in warehouses to reduce confusion over definitions of warehouses or in those premises where retail and wholesale sales are carried out, e.g. Costco.
50. The effect of Regulation 2(6) and (7) appears to be that a distance retail sale from outside the UK to a UK consumer is to be treated as if it were a supply in the UK. The business would therefore commit an offence. How would this be enforced by local TS Officers across international borders?
51. Regulation 23(2) provides the penalty of imprisonment on summary conviction to be half that for offences under the Consumer Protection Act 1987. The Act deals with offences in relation to consumer goods that are usually unsafe because of design or production defects rather than being unsafe because of their very nature, whereas the Regulations deal with offences in relation to goods that when used as intended by the manufacturers, are lethal. Not all toys or electrical goods etc are unsafe, all cigarettes are. It therefore seems inequitable that the penalty for the supplier of an unsafe toy is double that of the supplier of non-compliant cigarettes.
52. Local Authority Trading Standards Officers will be tasked with enforcing the legislation. We feel it is most important for government to recognise the vital role that LA TS Officers play in public health and invests in support to enable LA Ts Officers to carry out the enforcement role effectively.

Consultation Question 4: Are you aware of any further evidence or information which would improve the assumptions or estimates we have made in the consultation-stage impact assessment?

- 51 We welcome the overall recommendations of the consultation-stage impact assessment particularly its statement that the implementation of standardised tobacco packaging is worth pursuing now and that the cost of delaying a decision is too great in public health terms.
- 52 We welcome the decision to review the policy after five years which will allow time for early impacts to become clear although it needs to be borne in mind that long term impacts such as reduced youth uptake, reductions in smoking prevalence and improvements in public health will take many years to manifest.

- 53 The UK previously introduced a major change in packaging and labelling in advance of the rest of Europe by introducing coloured picture warnings on packs from 1 October 2008. As shown in table 8 of the IA this did not lead to an increase in cross border shopping. Indeed both cross border shopping and illicit trade declined over the period between introduction and full implementation from October 2008 to September 2010. As the IA acknowledges this is because the greatest influence on cross border shopping is down to external factors such as the £/€ exchange rate and the number of passenger journeys and therefore, just as with graphic warnings, standardised packaging is unlikely to have a significant impact.
- 54 We do not agree with the inclusion in "other key non-monetised costs" of "possible losses from a potential increase in consumption of illicit product and/or product legitimately bought outside the UK".
- 55 In economic theory, consumer surplus is usually defined as the difference between the total amount that consumers are willing and able to pay for a good or service and the total amount that they actually do pay.
- 56 In point 160 of the IA it is accepted that the theory of consumer surplus is more difficult to apply both 'in principle and practice' to an addictive product like tobacco. The rationale for including "lost consumer surplus" as a potential cost of standardised packaging does not stand up to scrutiny. In paragraph 21, this is defined as "the loss of the ability of those who continue to smoke to gain the intangible benefit associated with smoking a particular brand that only the packaging of that brand, as it is currently available, can produce". We note that no attempt is made to describe the alleged "intangible benefit", for the very good reason, we would suggest, that it is illusory.
- 57 In any case if, in practice, standardised packaging were to lead to some brand switching by consumers, from high price to low price cigarette brands, or if the tobacco industry were to respond to the introduction of standardised packaging by cutting prices, this should be dealt with quickly by additional increases in tobacco taxation, above those currently required by the duty escalator.
- 58 The benefits of introducing standardised packaging identified in the impact assessment far outweigh the costs, many of which can be quantified at North West level:
- o Overall, the main smoking related diseases are conservatively estimated to cost the NHS across the North West £397 million per year.
 - o The cost of smoking-related early deaths in the North West alone is calculated to be more than £602 million per year.
 - o An additional £367 million is lost to the regional economy each year through increased levels of absence from work from smokers compared to their non-smoking counterparts.

- ¹ Hammond, D. Standardized Packaging of Tobacco Products. Evidence Review. Prepared on behalf of the Irish Department of Health. March 2014.
- ² Hansard. HoC column 1018 et seq. (3rd April 2014)
- ³ Evans-Reeves, K.A., Hatchard, J., Gilmore, A. 'It will lead to negative unintended consequences': An evaluation of the relevance, quality and transparency of evidence submitted by the tobacco industry to the UK Consultation on standardised packaging. March 2014. European Conference on Tobacco or Health.
- ⁴ Ulucanlar S, Fooks GJ, Hatchard JL, et al. Representation and Misrepresentation of Scientific Evidence In Contemporary Tobacco Regulation: A Review of Tobacco Industry Submissions to the UK Government Consultation on Standardised Packaging PLoS Med. 2014; (3):e1001629.
- ⁵ Hatchard JL, Fooks GJ, Evans-Reeves KA, et al. A critical evaluation of the volume, relevance and quality of evidence submitted by the tobacco industry to oppose standardised packaging of tobacco products. BMJ Open. 2014; (2).
- ⁶ Gilmore A, Rowell A, Gallus S, Lugo A, Joossens L, Sims M. Towards a greater understanding of the illicit tobacco trade in Europe: A review of the PMI funded "Project Star" report. Tobacco Control Published Online First: 12 December 2013. doi:10.1136/tobaccocontrol-2013-051240
- ⁷ ASH Smoking Statistics 2014 http://www.ash.org.uk/files/documents/ASH_93.pdf
- ⁸ <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2645845/>
- ⁹ Public Health England Local Tobacco Control Profiles <http://www.tobaccoprofiles.info/profile/tobacco-control/data#gid/1000110/pa/6/at/102/page/9/par/E12000002/aref/E06000049>
- ¹⁰ Cancer Research UK 2011 <http://www.cancerresearchuk.org/about-us/cancer-news/press-release/more-than-200000-uk-children-start-smoking-every-year>
- ¹¹ Tobacco and Young People In the North West of England (Global Youth Tobacco Survey of young people, 2011)
- ¹² Griffiths E, Cullen S. Smokers slugged in Government's plan to raise \$5.3 billion. ABC News, 1 August 2013
- ¹³ Tobacco: Key facts and figures Australian Government, Department of Health
- ¹⁴ YouGov survey for ASH, March 2014. Fieldwork undertaken between 5th-14th March 2014
- ¹⁵ YouGov Survey. Fieldwork undertaken between 29th October - 1st November 2010
- ¹⁶ Rowell, A., K.A. Evans-Reeves, and A. Gilmore. Tobacco Industry manipulation of data on and press coverage of the illicit tobacco trade in the UK. Tobacco Control, 2014.
- ¹⁷ See for example: http://www.tobaccofacts.org/index.php/Tobacco_Industry_Responds_to_UK_Plain_Packaging_Consultation
- ¹⁸ Van Walbeek C, Shal L. Are the tobacco industry's claims about the size of the illicit cigarette market credible? The case of South Africa. Tobacco Control Published Online First 11 June 2014 doi:10.1136/tobaccocontrol-2013-0514412014
- ¹⁹ Gilmore A, Rowell A, Gallus S, Lugo A, Joossens L, Sims M. Towards a greater understanding of the illicit tobacco trade in Europe: A review of the PMI funded "Project Star" report. Tobacco Control Published Online First: 12 December 2013. doi:10.1136/tobaccocontrol-2013-051240.
- ²⁰ Van Walbeek C. Measuring changes in the illicit cigarette market using government revenue data: the example of South Africa. Tobacco Control Published Online First 15 January 2014 doi:10.1136/tobaccocontrol-2013-051178.
- ²¹ Stoklosa M, Ross H. Contrasting academic and tobacco industry estimates of illicit cigarette trade: evidence from Warsaw, Poland. Tobacco Control Published Online First 13 August 2013
- ²² Analysis of KPMG LLP report on use of illicit tobacco in Australia 2013 Full year report. Quit Victoria, Cancer Council Victoria. 12 April 2014 http://www.cancervic.org.au/downloads/mini_sites/Plain-facts/analysis-kpmg-illicit-tobacco.pdf
- ²³ Illicit trade of tobacco in Australia: A report prepared by Deloitte for British American Tobacco Australia Limited, Philip Morris Limited and Imperial Tobacco Australia Limited Quit Victoria, Cancer Council Victoria, March 2011 [updated November 2011]
- ²⁴ Illicit trade of tobacco in Australia: Report for 2011: A report prepared for British American Tobacco Australia Limited, Philip Morris Limited and Imperial Tobacco Australia Limited. A critique by Quit Victoria. Cancer Council Victoria, May 2012.
- ²⁵ KPMG. Project Sun - A study of the illicit cigarette market in the European Union. 2013 Results.
- ²⁶ Analysis of KPMG LLP report on use of illicit tobacco in Australia: 2013 Full year report. Quit Victoria, Cancer Council Victoria, April 2014.
- ²⁷ House of Commons Committee of Public Accounts. HM Revenue & Customs: Progress in tackling tobacco smuggling. HM Revenue & Customs: Progress in tackling tobacco smuggling. 4 Sept. 2013
- ²⁸ PAC publishes report on tackling tobacco smuggling. Public Accounts Committee press release. 10th October 2013
- ²⁹ Hansard: backbench business debate. 7 November 2013 column 477
- ³⁰ Revised EU Tobacco Products Directive: Article 15
- ³¹ Joossens L. Smuggling, the Tobacco Industry and Plain Packs Cancer Research UK, Nov. 2012
- ³² Oral evidence to the House of Lords European Union Sub Committee (Home Affairs) on 24th July 2013.
- ³³ Home Affairs Select Committee First Report on Tobacco Smuggling: paragraph 44

³⁴ Greenblat, E. Plain packaging making 'no impact' on Australian smokers, say tobacco chiefs: Sydney Morning Herald, 4th March 2014

³⁵ Chantler Review Notes-of-Australia-based-meetings: See, for example, exchange with Mark Connell of BAT Australia, page 38.

³⁶ See p.48 of the Explanatory Memorandum to the Australian Excise Tariff Amendment (Tobacco) Bill 2014 and p.6 of Sir Cyril Chantler's report.

³⁷ Corderoy, A. Tobacco industry claims on impact of plain packaging go up in smoke. Sydney Morning Herald, 12 March 2014.

³⁸ Australia cigarette plain packaging law upheld by court BBC Business News Online, 15 August 2012

³⁹ Stewart, S. Unpublished Letter to the Sydney Morning Herald, 12 March 2014

⁴⁰ Scollo M, Bayly M, Wakefield M. Availability of illicit tobacco in small retail outlets before and after the implementation of Australian packaging legislation. Tobacco Control, published on April 10, 2014 as 10.1136/tobaccocontrol-2013-051353

⁴¹ Scollo M, Zacher M, Durkin S, Wakefield M. Early evidence about predicted unintended consequences of standardized packaging of tobacco products in Australia: A cross-sectional study of place of purchase, regular brands and use of illicit tobacco. BMJ Open. In Press

⁴² Young JM et al. Association between tobacco plain packaging and Quitline calls: a population-based, interrupted time-series analysis Medical Journal of Australia 2014; 200: 29-32

⁴³ Guillaumier A, Bonevski B, Paul C. Tobacco health warning messages on plain cigarette packs and in television campaigns: a qualitative study with Australian socioeconomically disadvantaged smokers. Health Educ Res. 2014; Vol. PubMed PMID: 24966335. Epub 2014/06/27. Eng.

⁴⁴ Wakefield M, Bayly M, Scollo M. Product retrieval time in small tobacco retail outlets before and after the Australian plain packaging policy: real-world study Tobacco Control 2013 - doi:10.1136/tobaccocontrol-2013-050987.

⁴⁵ Carter, O., Welch, M, Mills, B, Phan, T, Chang, P. BMJ 2013; 346:f106. Plain packaging for cigarettes improves retail transaction times. BMJ 2013; 346:f106.

⁴⁶ Plain packaging making 'no impact' on Australian smokers, say tobacco chiefs: The Australian 4th March 2014

⁴⁷ http://tobaccofreefutures.org/wp-content/uploads/2013/08/6353_TSNW-Young-Persons-Alcohol-Tobacco-Report_130605_V3.pdf