

Tobacco **FACTS**

PLAIN PACKAGING OF TOBACCO PRODUCTS

Plain packaging of tobacco products will significantly curb the use of the pack as a promotional vehicle, increase the effectiveness of health warnings and reduce the tobacco industry's ability to use misleading and deceptive packaging.

WHAT IS PLAIN PACKAGING?

Plain packaging requires that all tobacco products be sold in packaging without the use of colour, decorative or design features that could add appeal to the product or trademarks, logos, inserts/onserts or promotional information of any kind.

The exact shape, colour and material of the pack would be mandated with only prescribed information appearing on the packs in a standard colour and font style.



Research shows that plain packaging is likely to:

- make health warning messages on packs more prominent and enhance recall;
- reduce the link between cigarette branding and 'false beliefs' of different levels of health risks associated with each brand/product;
- reduce youth smoking and decrease youth uptake;
- remove positive association with cigarette brands and image; and
- increase the incidence of people quitting.

Recent studies show that a majority of the Australian population would support plain packaging of cigarettes.

There is limited regulation of pack design and descriptors in Australia. The *Tobacco Advertising Prohibition Act 1992* (Cth) ("the **Act**") and various State and Territory laws on tobacco advertising do not extend to bans on advertising and promotion through the pack itself.

Through the use of colours, novelty packaging, logos and other imagery, manufacturers are able to engineer the pack to appeal to their intended market segment and convey certain brand characteristics and quality.

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"... it's because not everything is illegal. And they employ advertising agencies to help them sell their products within the legal framework that they've been given."

Todd Sampson: The Gruen Transfer- ABC

THE PACK AND BRAND IMAGE

The pack communicates a lot about a brand's character and quality, as well as the stylishness and sophistication of the person who smokes it. Tobacco packs are often described as "badge products" as they "remain with the user once opened and are repeatedly displayed in social situations, thereby servicing as a direct form of mobile advertising for the brand".

Packs are designed to target certain market segments, attract new smokers and encourage brand switching.

"the primary job of the package is to create the desire to purchase and try. To do this, it must look new and different enough to attract the attention of the consumer."

Miller, A Arthur D Little Inc
Report to Liggett and Myers

THE PACK AND ITS TARGET AUDIENCE

Tobacco companies also use new and innovative pack designs to target particular market segments and promote certain brand characteristics. Cigarettes are often packaged in slim long packs, with pastel colours or extensive white space used to appear sophisticated and feminine.



The original Longbeach pack and the new 2009 Longbeach 'Slims'



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“Some women admit that they buy Virginia Slims, Benson & Hedges etc when they go out at night to complement a desire to look more feminine and stylish. ...more fashionable feminine packaging can enhance the relevance of some of our brands.” Philip Morris (1992)

THE PACK AND ITS IMPACT ON HEALTH WARNINGS

Brand imagery appearing alongside health warnings on packs also sends a mixed message about the product and has the potential to undermine the impact of health warnings, particularly among young people. Some brands even incorporate the colours of health warnings into the design of the pack, causing warnings to blend into overall pack design and become less striking.

THE PACK AND PERCEPTIONS OF QUALITY AND STRENGTH

Studies on the effects of pack design, including by the tobacco industry, have found that packaging materials and imagery all influence consumer perceptions about the quality and sensory attributes of different brands.

For example, light colours and pastel shades are universally used to suggest that a particular brand is less harmful than its “stronger” counterpart.



Green shades are often used for menthol variants to convey the concepts of freshness and mint flavour

INDUSTRY THREATS AND COUNTER ARGUMENTS

In our view, there are no international or domestic barriers to the introduction of plain packaging laws in Australia. The release of tobacco industry documents has shown that the tobacco industry have known that international trade agreements do not offer the protection they have so publicly claimed.

Given trade mark law is aimed at protecting broader public interests and does not provide for absolute private property rights, plain packaging is justifiable, proportionate and not inconsistent with international trade agreements.

Additionally, while the rights of tobacco companies to use their trade marks and the retail package itself will be limited by plain packaging laws, the government will not obtain any advantage, gain or benefit capable of constituting an “acquisition” of property for the purposes of s.51(xxxi) of the Constitution; therefore compensation will not be due.

PLAIN PACKAGING IS NECESSARY FOR AUSTRALIA TO MEET ITS OBLIGATIONS

Plain packaging laws are required to implement the *National Tobacco Strategy* proposal to eliminate remaining forms of tobacco promotion. It would also assist the Commonwealth government to reach its policy goal of reducing smoking rates to 9% or less by 2020.

Plain packaging regulations are necessary to implement Australia's obligations under Article 13 (tobacco advertising, promotion and sponsorship) of the Framework Convention on Tobacco Control, which require a 'comprehensive ban of *all* tobacco advertising, promotion and sponsorship'. They would also maximise the effectiveness of Australia's implementation of its obligations under Article 11 (packaging and labelling of tobacco products).

Australia: Healthiest Country by 2020

The National Preventative Strategy - Roadmap for Action recommends amending both the Tobacco Advertising Prohibition Act 1992 and the Trade Practices CPIS (Tobacco) Regulations 2004 to specify exact requirements for plain packaging.

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