September 4, 2018

To whom it may concern,

Thank you for the opportunity to submit our views on the proposed regulations. We are an international team of researchers which has been studying the activities of the global tobacco industry since 1999. Our research has included industry strategies to shape public policy, and to challenge evidence-based and effective tobacco control measures that save lives.

Available evidence show that standardized packaging is a crucial step in limiting the ability of the tobacco industry to advertise its products, particularly in markets where other forms of advertising are restricted. Cigarette package design, particularly colour branding, is especially appealing to children and young people, thus making the proposed policy a critical step forward in protecting the next generation from tobacco use.

There is growing evidence, including recently published research by our team, on the global tobacco industry’s opposition to standardized packaging, and the range of strategies pursued to prevent its adoption. These strategies include domestic legal challenges; disputes under bilateral trade and investment agreements, and the World Trade Organization; lobbying and commissioned research through allied organizations. The main premise of these challenges is that restrictions on packaging breach the intellectual property rights of tobacco manufacturers, violate trade and investment agreements, and establish a precedent that could affect other industries.

Our recently published research (see attached) demonstrates that the global tobacco industry has also pursued highly coordinated public relations campaigns,
aimed at the public and policy-makers across markets including Canada, arguing against standardized packaging legislation. These campaigns have been used to disseminate industry contentions that there is no evidence for the effectiveness of standardized packaging, and that such policies contribute to a ‘slippery slope’ of regulation that would accelerate the encroachment of a ‘nanny state’. The industry has further argued that packaging restrictions represent a threat to intellectual property rights, and will increase the illicit trade in tobacco products. In support of these claims, the industry has cited findings from its own internal research and commissioned reports from accountancy firms, which have been widely publicised by allied groups, such as the Canadian Convenience Store Association, as well as tobacco companies themselves. Importantly, no evidence from verifiable, independent research has been cited by the industry to support these claims. Indeed, independent evidence directly contradicting industry positions have been overlooked.8

Our analysis also suggests that transnational tobacco companies have been prepared to put their commercial rivalries aside, and to adopt a united front, when faced with regulatory threats to their common interests. The tobacco industry’s ties to, and funding of, allied groups is especially notable. Such groups seek to create false debates around the evidence supporting packaging regulation and allow these organizations to present these “concerns”, not as an extension of vested interests, but as emerging from ostensibly independent organizations or groups affected by these measures. This enables the industry to seek to exploit public sympathy, for example small (tobacco) shop owners, in arguing against regulation.

Our research also shows that a tobacco industry campaign against plain packaging within a specific country, not only targets the market in question, but is designed to send a signal to governments elsewhere considering similar measures. In this way, industry seeks to create a ‘chilling effect’ that can cause other governments to dilute, delay or abandon proposed regulation in order to avoid potential trade or investment disputes and associated costs that may be threatened by aggrieved tobacco companies. However, the ability of Canada, the United Kingdom and Australia, among other countries, to pass standardized packaging legislation, despite well-resourced tobacco industry public relations campaigns, demonstrates the ability of governments, committed to the protection of public health, to pass effective tobacco control measures despite industry opposition. The ability of tobacco control policy innovators to pass such measures makes important contributions to the adoption of effective tobacco control measures in other countries.

Australia’s experience of tobacco industry strategies following implementation of
standardized packaging provides lessons for Canadian policymakers. The industry has had some success in creating the perception that reductions in smoking rates are the critical measurement of the effectiveness of the legislation. This disregards the reality that the long-term goals of standardized packaging are to discourage people from taking up smoking, encourage smokers to quit, and to avoid relapse. Based on this reframing, the industry, as well as its allied organisations and some media outlets, have argued that standardized packaging has been a failure, despite peer-reviewed research demonstrating its overall success. More pragmatic strategies have included expansion of brand variants that carry combinations of names, colour, flavour and descriptive adjectives to convey information previously available on cigarettes packs.

Adopting standardized packaging policy is not only crucial to protect the health of Canadians, but will have international significance. A coordinated global strategy by the industry to prevent standardized packaging requires an equally concerted effort by governments and public health actors to support this effective policy. As this policy spreads, momentum will build for its introduction in other contexts including low- and middle-income countries, those with less established records in tobacco control and less developed policy advocacy networks than in Canada. As such, this policy will underline Canada’s position as a leader, not only in tobacco control, but in global health more broadly.

We are therefore writing to fully support the proposed Tobacco Products Regulations (Plain and Standardized Appearance). These regulations should be adopted as soon as possible, without being weakened, and should be strengthened where feasible. Plain and standardized packaging should apply to all tobacco products. For cigarettes, the slide and shell packaging format should be required, as this will further enhance impact.

Yours sincerely,

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References


