Submission towards the Plain Tobacco Packaging Bill (Removing Branding from Cigarette Packs) 2009

On behalf of

The Royal Australasian College of Physicians

Submission to:
Committee Secretary
Senate Standing Committee on Community Affairs
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Introduction
The RACP welcomes the opportunity to comment on this important element of tobacco control. Summarized below is the evidence to mandate plain tobacco packaging. The RACP has a position statement on Plain Tobacco Packaging and further information can be found within that document.¹

Summary
The evidence presented in this submission supports plain tobacco packaging. The knowledge that trademark law is aimed at protecting broader public interests, plain tobacco packaging is justifiable and not inconsistent with international trade agreements. The College recognises that further public health research efforts are necessary toward comprehensive tobacco control.

Background
The World Health Organizations (WHO) Framework Convention on Tobacco Control (FCTC) requires nations that have ratified the convention to ban all tobacco promotion and advertising. In light of now widespread restrictions on advertising in the mass media and outdoors, packaging has become the key promotional vehicle for the tobacco industry to encourage smokers and potential smokers in purchasing tobacco products.² Plain and generic packaging of all tobacco products would remove a key remaining means for the industry to promote its products,³ a move that is consistent with the FCTC’s intention to ban all tobacco promotion.

The FCTC defines tobacco advertising and promotion as “any form of commercial communication, recommendation or action with the aim, effect or likely effect of
promoting a tobacco product or tobacco use either directly or indirectly” and requires that each country shall “undertake a comprehensive ban on all tobacco advertising, promotion and sponsorship”. Advertising on packaging would meet this criterion.

Legislation for plain packaging remains an important part of comprehensive tobacco control designed to eliminate all forms of tobacco advertising and promotion. Following the recommendations of this submission would make Australia the first country to adopt plain packaging mandatorily, demonstrating our commitment to health prevention strategies for the control of tobacco.

Features of plain packaging
Plain packaging would require the removal of all colours, brand imagery, corporate logos and trademarks, permitting manufacturers to only print the brand name in a mandated size, font and place, in addition to required health warnings and other legally mandated product information. A standard cardboard texture would be mandatory and the size and shape of the package would also be regulated to prevent novelty pack shape varieties. Plain packaging would as a result standardise the appearance of all tobacco packaging, thus greatly reducing the status and appeal of tobacco.

The cigarette pack assumes unprecedented importance as a promotional vehicle for reaching current and potential tobacco smokers. Tobacco packaging conveys brand identity through brand logos, colours, fonts, pictures, packaging materials and shapes. Metallic finishes, eye-catching colour, novel shapes, special editions, split packs, and collectors tins have all been used to attract consumers to tobacco products. In 1995, Cunningham and Kyle argued for the plain “generic” packaging of tobacco products, stressing that the pack was a key promotional vehicle and one that should be subject to the same controls that apply to all forms of tobacco advertising.

Packaging differentiates brands, which is particularly important in homogenous consumer goods categories like cigarettes. British American Tobacco and Philip Morris have predicted that in the future, pack design alone will drive brand imagery. Without brand imagery, packs simply become functional containers for cigarettes rather than a medium for advertising. A recent Morgan Stanley report stated: “In our opinion, (after taxation) the other two regulatory environment changes that concern
the industry the most are homogenous packaging and below-the-counter sales. Both would significantly restrict the industry’s ability to promote their products.17

**Evidence**

As plain packs have never been legislated, evidence about their possible impact derives from experimental studies.2 A recent review of studies on the effect of advertising restrictions concluded that comprehensive advertising bans can reduce tobacco consumption.18 A 1995 Canadian report remains the most comprehensive review of the likely effects of plain packaging19 and concluded that “plain and generic packaging of tobacco products through its impact on image formation and retention, recall and recognition, knowledge and consumer attitudes, and perceived utilities would likely depress the incidence of tobacco smoking uptake by non-smoking teens and increase the incidence of smoking cessation by teens and adult smokers”.19

Research shows that tobacco advertising and promotion increases the uptake of smoking among adolescents.20 The move toward a plain and generic package would remove another form of advertisement and would therefore impact on the uptake of tobacco smoking in this younger population.

**Misleading the consumer**

Research reveals the careful balancing act companies have employed in using pack design and colour to communicate the impression of lower tar or milder cigarettes.3 It is important that consumers not be further mislead into thinking that cigarettes in the pack are in some way safer than others. Misleading tobacco descriptors have been common.21,22 The New Zealand Commerce Commission in 2008 undertook an enquiry into the terms “light” and “mild” on tobacco products, and found that use of the misleading descriptors risked breeching the Fair Trading Act.23 However, focusing only on the descriptor as a form of misleading the consumer is inadequate. In countries where these misleading descriptors have already been banned, tobacco companies have side-stepped legislation and focused on other communication strategies by using colour-coding to create different pack colours for different versions within the same brand family.24 The case for plain packaging will eliminate a variety of methods of communication which had the potential to mislead the consumer.

**Packaging to appeal to new or uncommitted smokers**
Brand image is the factor that is important for young tobacco smokers in decision making about brand choices. Tobacco company documents indicate that tobacco companies appreciate the significance of recruiting youth to their own brands and research shows that tobacco companies are aware that brand choices are made relatively early in the life of a tobacco smoker and that packaging is an important element in positioning brands to be attractive to youth. Ages 16–21 years are where tobacco smoking starts and brand preferences are developed.

An inclusive and comprehensive approach
An analysis of data for 22 Organisation for Economic Cooperation Development (OECD) countries from 1970 to 1992 concluded that comprehensive bans on advertising and promotion significantly reduced tobacco smoking, where as limited bans have little or no effect due to the potential for shifting resources from banned activities to other marketing efforts. Regulation to mandate plain packaging could greatly increase the effectiveness of bans on advertising and promotion and, combined with other anti-smoking efforts, would be likely to further reduce prevalence of smoking in both Australia and New Zealand.

Appendix
The Royal Australasian College of Physicians (RACP)
The Royal Australasian College of Physicians (RACP) is a Fellowship of more than 10,500 specialist physicians and 4,000 trainees who practise in more than 25 medical specialties including paediatrics, cardiology, respiratory medicine, neurology, oncology, public health medicine, occupational and environmental medicine, rehabilitation medicine, palliative medicine, geriatric medicine, sexual health medicine and addiction medicine. Beyond the drive for medical excellence, the RACP is committed to developing health and social policies which bring vital improvements to the well-being of patients. The College works to establish and achieve the highest standards of contemporary knowledge and skill in the practise of medicine and promote the health and well being of the community and of its members. The College, in collaboration with affiliated specialty societies, is the provider of frameworks and standards of education for specialist physicians and trainees.

In 2009, the RACP identified three key areas of policy focus. Two of these key areas cut across the arena of tobacco control, and are the prevention of chronic disease and
Indigenous health. The College is a key stakeholder in the Australian health system, and it advocates for improving the health and wellness of individuals and communities and reducing disparities across population groups with relation to tobacco control.

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