



**Australian Government**  
**Department of Health**

**SECRETARY**

*A.* April 2017

Committee Secretary  
Senate Select Committee on Red Tape  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

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Dear Sir/Madam

**Effect of restrictions and prohibitions on business (red tape) on tobacco retail**

Thank you for the opportunity to make a submission to the Senate Select inquiry on the effect of restrictions and prohibitions on business (red tape) on the economy and community, specifically in the area of tobacco retail.

The Australian Government Department of Health's tobacco control responsibilities are in relation to plain packaging and the prohibition of tobacco advertisements. Tobacco plain packaging and tobacco advertising prohibition are part of a comprehensive package of tobacco control measures intended to contribute to achieving the ultimate objective of improving public health by reducing smoking. The retail sale of tobacco products is predominantly regulated by state and territory governments. This includes the licensing of tobacco retailers and bans on the point-of-sale display of tobacco products.

***Tobacco Plain Packaging***

The *Tobacco Plain Packaging Act 2011* (the TPP Act) together with the *Tobacco Plain Packaging Regulations 2011* (the TPP Regulations), set out the requirements for plain packaging of tobacco products. The Act prohibits the use of logos, brand imagery, and promotional text on tobacco products and packaging, and includes restrictions on colour, size, format and materials of packaging, as well as the appearance of brand and variant names.

Under the TPP Act and TPP Regulations, since 1 December 2012 all tobacco products sold, offered for sale or otherwise supplied in Australia must be in plain packaging and be labelled with the updated and expanded health warnings. Manufacturers/importers/suppliers of tobacco products intended for sale in Australia need to make arrangements for compliant retail packaging in accordance with the TPP Act and TPP Regulations. Tobacco products that are imported in non-compliant packaging need to be repackaged into compliant retail

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packaging before being sold, offered for sale or otherwise supplied (whether by wholesale or retail sale) in Australia.

The department has responsibility for the enforcement of the TPP Act and TPP Regulations. The National Measurement Institute (NMI), a division within the Department of Industry, Innovation and Science, undertakes compliance and enforcement activities across Australia on the department's behalf. As part of their compliance activities, NMI conducts educational visits to tobacco retailers to ensure that retailers understand the requirements under the TPP Act and TPP Regulations.

If non-compliance is identified by an authorised officer under the Act, enforcement activities are proportionate to the seriousness of the non-compliance and can range from education and written warnings, through to infringement notices and/or civil or criminal proceedings.

The *Competition and Consumer (Tobacco) Information Standard 2011* (the Standard) specifies the updated and expanded health warnings required to appear on all tobacco retail packaging and is an important complementary measure to plain packaging. The Standard is administered by the Australian Competition and Consumer Commission.

#### ***Post-Implementation Review of Tobacco Plain Packaging***

The Department prepared a Post-Implementation Review (PIR) for the tobacco plain packaging measure, which was published on the Office of Best Practice Regulation's website in February 2016, and is accessible at <http://ris.pmc.gov.au/2016/02/26/tobacco-plain-packaging>. The PIR includes an estimate of the impacts of the measure on industry (including retail), government and the wider community more generally.

The PIR also considered the weight of the available evidence in the public domain from a variety of sources to inform the overall assessment of the measure's impact and the conclusions reached. In light of the evidence considered, the PIR concluded that tobacco plain packaging has begun to achieve its objectives of reducing smoking and exposure to tobacco smoke in Australia and is expected to continue to do so into the future.

#### ***Tobacco Advertising Prohibition***

The department is also responsible for administering the *Tobacco Advertising Prohibition Act 1992* (the TAP Act). The object of the TAP Act is to limit the exposure of the public to messages and images that may persuade people to start or continue smoking. Under the TAP Act, with certain limited exceptions, it is an offence to publish or broadcast a tobacco advertisement.

One exception is for advertisements indicating that tobacco products are available from a retailer, provided that the advertisement does not state any brand names, or identify or promote any individual products. Point of sale tobacco advertising is predominantly governed by state or territory laws. However, where there is no law of a state or territory, the TAP Act regulates the display of point of sale advertisements.

I trust that this information will assist the Senate Select Committee in its considerations.

Yours sincerely

Martin Bowles PSM

