

Standardised Packaging of Cigarettes Has the Government Caved in to Tobacco Lobbying?

Introduction

1. **ASH currently expects that the Queen's Speech will *not* include legislation on standardised ("plain") packaging.**
2. This briefing:
 - Gives a summary of recent media reports on **whether the Government will back standardised packaging** (paragraphs 3 to 7)
 - Gives basic information on young people and smoking (paragraphs 8 to 9)
 - Gives examples of current cigarette packs designed to appeal to young people, and examples of Australian standardised packs (paragraphs 10 to 11)
 - Gives an outline of what standardised packs would look like (paragraphs 12 to 16)
 - Summarises the **tobacco industry's involvement in the campaign** against standardised packaging (paragraphs 17 to 25)
 - Looks at key allies of the industry in their fight against tobacco control, including **UKIP** and the Australian lobbyists Crosby Textor (co-founded by David Cameron's adviser **Lynton Crosby**) (paragraphs 26 to 31)
 - Looks at the likely level of Parliamentary support for standardised packaging if there were to be a "free vote" on the issue. (paragraphs 32 to 33).

Media Reports on Standardised Packaging

3. The Sun newspaper (Political Editor Tom Newton Dunn) reported on Thursday 2nd May that:

"David Cameron has scrapped plans to force all cigarettes to be sold in plain packs, The Sun can reveal. Health ministers had been weighing up the move for a year. Campaigners had insisted making packets bland would put smokers off — and stop kids from starting the habit. The PM initially backed the plan, but has been persuaded it would damage the packaging industry. There were also concerns it could cost £3billion in lost tax revenue and tie up the Commons in bitter arguments. Mr Cameron has now ordered the proposed law to be pulled from next week's Queen's Speech. A Whitehall source said: "Plain packaging may or may not be a good idea, but it's nothing to do with the Government's key purpose. "The PM is determined to strip down everything we do so we can concentrate all our efforts on voters' essentials. That means growth, immigration and welfare reform." Officials in Australia, the first to enforce

uniform packs, have admitted there was still no evidence that they cut smoking.”

4. The source for this story is not known, but we speculate that it may well have been Lynton Crosby. His lobbying company’s involvement in the plain packaging debate in Australia is detailed in this brief at paragraphs 27-28.
5. The Department of Health has responded to the Sun story by saying that no decision has yet been made on the issue, although the formal DH consultation on standardised packaging closed in August 2012.
6. Also responding to the Sun story, Shadow Health Secretary Andy Burnham MP said:

"This Government has completely lost its way on public health. David Cameron promised to get tough on smoking and alcohol abuse, but instead has caved in to big business and vested interests. It is disgraceful for a government source to suggest that public health and tackling premature deaths is no longer a priority. Ministers must disown these comments without delay. Today, I make them this positive offer. If they brought forward this policy, they would have Labour's full support to get it through, which means it will take up the minimum of Parliamentary time. Standardised cigarette packets are key to deterring our young people from taking up smoking."

7. The issue may cause strains in the Coalition Government, since Liberal Democrats are known to support standardised packaging.¹ It may also cause problems for the anti-independence alliance in Scotland, since the SNP Government in Scotland has announced its support for standardised packaging but has said that it will wait for the UK Government to respond on its consultation before deciding how to proceed.²

Young People and Smoking

8. Although smoking rates have fallen since 1948, there are still ten million adult smokers in the UK.³ Smoking is a habit largely formed in childhood. It is estimated that every year more than 200,000 children in the UK start smoking. Among adult smokers, about two thirds report that they took up smoking before the age of 18 and over four fifths before the age of 20. The latest survey of adult smokers shows that almost two fifths (39%) had started smoking regularly before the age of 16.⁴ 58% of teenage mothers smoke before or during pregnancy and 36% smoke throughout their pregnancy. Maternal smoking causes up to 5,000 miscarriages, 2,200 premature births and 300 perinatal deaths each year.⁵
9. Half of all lifetime smokers will die from smoke-related disease. Smoking remains the major cause of premature death and disease killing over 100,000

1 See for example <http://libdems4london.org.uk/en/article/2012/641009/paul-burstow-demands-plain-cigarette-packaging>

2 http://www.huffingtonpost.co.uk/2013/03/27/plain-cigarette-packaging-wins-scottish-government-support_n_2964193.html

3 Smoking prevalence rate for UK adults was 20% in 2011, see ASH brief "Who Smokes and How Much".

http://www.ash.org.uk/files/documents/ASH_106.pdf

4 ASH Factsheet Young People and Smoking, March 2013 http://www.ash.org.uk/files/documents/ASH_108.pdf

5 <http://www.smokefreeaction.org.uk/files/docs/briefing-packsheet.pdf>

people in the UK each year, more than the next six causes of preventable death put together. ⁶

Cigarette Packs: Appealing to Young People

10. Cigarette packaging is last remaining area of tobacco advertising in the UK, following a general ban on advertising in the Tobacco Advertising and Promotion Act 2002, and a ban on retail displays of tobacco products (which came into force in April 2012 in for large stores and will come into force in all other stores from April 2015) under the Health Act 2009).
11. Tobacco manufacturers therefore design their packs very carefully, and in particular to try to appeal to new smokers. Here are some examples of existing cigarette packs, to illustrate this point. The first pictures show pack designs specifically created to appeal to young women.



The next picture shows how the tobacco industry bends the existing rules about packaging to appeal to new consumers in their target markets and to try to discourage existing users from quitting. On the outside, the pack of Benson and Hedges “Silver Slide” looks not unusual. But unlike most packs, to open it you have to press the side opening where it says “Push and Slide”. That exposes a tray containing the cigarettes. Printed on the tray are the words:

“I owe my success to having listened respectfully to the very **Best** advice & then going away and doing **tHe** exact opposite”.

G.K. Chesterton



Standardised Cigarette Packs

12. Standardised packaging would remove virtually all branding. The only branding to remain would be a product name in standard font and size). The pack and contents would be a standard shape, size and colour, and health warnings on front and back would be increased in size. All packs will have a quitline number and web address.⁷
13. Australia was the first country in the world to require tobacco products to be sold in standardised packaging, under the Tobacco Plain Packaging Act 2011.⁸ Products manufactured since October 2012, and all on sale since 1 December 2012 must be sold in prescribed standardised packaging.
14. The following are examples of standardised packaging from Australia. Note that they are **not** “plain” packs. They are in fact highly designed – but intended to make the product less attractive to consumers. This is of course the real reason for tobacco industry opposition to plain packaging.

⁷ The Department of Health consultation document on standardised packaging is at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170568/dh_133575.pdf

⁸ Full text at <http://www.wipo.int/wipolex/en/details.jsp?id=11956>



15. These designs were nominated by the London Design Museum for its 2013 international design prize. ⁹
16. The UK Government commissioned a systematic review from the Public Health Research unit, showing that plain, standardised packs are less appealing, make health warnings more effective and reduce the ability of the packaging to mislead consumers about the harms of smoking. ¹⁰ They are therefore a powerful weapon in trying to prevent a new generation of young people from starting to smoke.

⁹ <http://www.packaging-gateway.com/features/featureplain-cigarette-design-anti-packaging-centre-stage>

¹⁰ http://phrc.lshtm.ac.uk/project_2011-2016_006.html

The Tobacco Industry Campaign

17. The tobacco industry has run a well-resourced and mendacious campaign against standardised packs. If it does not proceed with the proposal, the UK Government risks being seen as bowing to this pressure.
18. There are four major tobacco multinationals: Japan Tobacco International (JTI), Imperial Tobacco, Philip Morris International (PMI), and British American Tobacco (BAT). The total value of tobacco sales in the UK in 2011 was £15.3 billion. JTI (through its subsidiary Gallaher) and Imperial control 85% of the UK market. Imperial and BAT are based in the UK.
19. JTI has announced that it is spending at least £2 million on the campaign against standardised packaging.¹¹ The other three major tobacco multinationals have also spent heavily. Complaints against a series of JTI (Gallaher) adverts on plain packaging have been upheld by the Advertising Standards Authority.¹²
20. The tobacco industry claims that the UK packaging industry will be hit by the introduction of standardised packs. In fact, cigarette packaging accounts for less than 5% of all packaging cartons manufactured in the UK, with a total value of less than £50 million. The number of people employed in the UK in manufacturing tobacco packaging is 325. Tobacco packaging will of course still be needed under standardised packaging rules.¹³
21. The tobacco industry claims that standardised packs will increase illicit trade. There have been a series of recent media reports based on industry funded studies suggesting that the UK faces a growing level of illicit trade. However, all independent studies (including HMRC's "Measuring Tax Gaps" publications) show that the illicit tobacco trade is falling in the UK. The most recent HMRC figure for the proportion of cigarettes consumed in the UK that are illicit was 9% in 2010/11 (mid range estimate, down from 21% in 2000/1).¹⁴ The most recent independent study is a survey by the market research firm NEMS in the North of England in January and February 2013 (sample size 1500), showing the level of illicit trade down to a record low for the region of 10%.¹⁵
22. All key security features on existing tobacco packaging will also be on standardised packaging, including covert anti-counterfeit marks (read by handheld scanners) and numerical codes.
23. In the UK opposition to standardised packaging has been organised by the tobacco industry front group FOREST, through a campaign called "Hands Off Our Packs". FOREST receives well over 90% of its funding from the tobacco industry.¹⁶

11 <http://www.jti.com/media/news-releases/first-jti-campaign-around-plain-cigarette-packs/>

12 http://www.asa.org.uk/Rulings/Adjudications/2013/3/Gallaher-Ltd/SHP_ADJ_208266.aspx

13 <http://www.smokefreeaction.org.uk/files/docs/EmploymentBriefing.pdf>

14 A comprehensive report on the illicit tobacco trade in the UK can be found at <http://www.ash.org.uk/about-ash/all-party-parliamentary-group-on-smoking-and-health/appg-documents#IllicitTrade>

15 http://www.illicitobaccoonorth.org/FileUploads/NE_Illicit_Tobacco_Report_key_findings.pdf

16 <http://www.forestonline.org/about/faq/>

24. Freedom of Information requests show four meetings this year between tobacco companies and Department of Health officials as (an entirely proper) part of the consultation on standardised packaging, as follows:
- Imperial Tobacco: 9th January
 - BAT: 25th January
 - PMI: 30th January
 - JTI: 5th February
25. Interestingly, the arguments made by the industry are reflected almost exactly by the (anonymous) “Whitehall source” quoted in paragraph 3 above. For example, Imperial said that £3bn a year was lost in illicit trade, 70,000 jobs rely on tobacco supply chain (what the industry calls ‘forward linkages’) in the UK, that the costs of ‘re-tooling’ for manufacture of standard packs would be tens of millions, that they could move manufacturing abroad, resulting in significant job losses in the UK, and that packaging design supported small businesses.

Other Opponents: Tobacco Industry Connections

26. The UK campaign against standardised packaging is part of a worldwide effort by the tobacco industry to defeat what it sees as a major threat to its “intellectual property”. For example, in July, 2012 it was reported that the American lobbying group, the American Legislative Exchange Council (ALEC), had launched a worldwide campaign against plain packaging of cigarettes. With the backing of tobacco companies and other corporate interests, it is targeting governments which are planning to introduce bans on cigarette branding, including the UK and Australia.¹⁷
27. In Australia, while Lynton Crosby was Federal Director of the Liberal Party, the Party accepted major donations from the tobacco industry. It has been reported that between 2000 and 2010 the Party received \$AUS 2.5 million from PMI and BAT.¹⁸
28. The UK Conservative Party has hired Mr Crosby through his lobbying firm Crosby Textor Fulbrook, which has represented tobacco industry clients, including PMI, since the 1980s. In Australia, Mark Textor, co-founder of the company with Mr Crosby, was an adviser to the industry in its campaign against standardised packaging.¹⁹ CTF now has an office in London.
29. Other lobbyists hired by the tobacco industry to campaign against standardised packs include Luther Pendragon, a major UK lobbying and PR firm whose clients include McDonald's and Exxon Mobil, hired for this purpose by PMI. The firm contacted trading standards officers around the country, warning them that plain packaging “will lead to a significant increase in counterfeiting and so will harm the sales of legitimate retailers”. Following protests from healthcare organisations also listed as clients of Luther Pendragon (past clients include St George's Healthcare NHS Trust, NHS Skills for Health, and the Association of the British Pharmaceutical Industry) and a Lancet article calling on these

17 http://en.wikipedia.org/wiki/American_Legislative_Exchange_Council

18 <http://www.news-medical.net/news/20100803/Tobacco-companies-alleged-liaison-with-Liberals-for-cigarette-packaging-questioned.aspx>

19 <http://www.guardian.co.uk/business/2012/dec/02/smoking-tobacco-plain-packaging>

organisations to cut their ties with the agency, the company announced in February 2013 that it would no longer work for PMI^{20 21}

30. The tobacco industry has frequently quoted retired senior police officers as raising concerns about standardised packaging. Peter Sheridan, a former assistant chief constable in Northern Ireland, and Roy Ramm, a former Scotland Yard commander, wrote to MPs and Peers supporting this argument. Both men are involved with a group called the Common Sense Alliance, which receives funding from business interests including BAT. The letter to parliamentarians was sent via Goddard Global, a multinational lobbying firm that provides the secretariat for the alliance. A BAT spokesman has confirmed that it employs the lobbying firm.²²
31. In the UK some of the loudest (and least rational) opponents of tobacco control policy, including standardised packs, are UKIP activists.²³ UKIP is still calling for the repeal of the ban on smoking in public places, introduced in the Health Act 2006 after an overwhelming majority of MPs backed it in a free vote.²⁴ Deputy Leader of UKIP, Paul Nuttall MEP, announced his Party's opposition to standardised packaging in December 2012.²⁵ Outrageously, for a Party, opposed to waste in the European Union, UKIP MEPs were reported as having voted in March this year to have voted for a European Parliament amendment to include subsidies for tobacco growers in the Common Agricultural Policy.²⁶ It is possible that one of the first big impacts of UKIP on Government policy will be to drop a plan to protect young people from tobacco marketing, and help ensure that over 200,000 children a year across the UK will continue to start smoking, with many dying early from smoking-related disease as a result.

Let Parliament Decide!

32. Based on details of lobbying by supporters of standardised packaging, ASH believes that there would be a clear majority in both the Lords and the Commons for standardised packaging, in a free vote. A free vote was used on legislation on the introduction of smokefree enclosed public places, and the measure passed in the Commons on 14th February 2006 with a majority of over 200. Although David Cameron did not originally support smokefree legislation (he did not vote in the key divisions²⁷) has subsequently described it as a great success. The Smokefree Action Coalition (of major health and

20 Lynsey Barber, "Luther Pendragon no longer working with Philip Morris", PR Week, 11 February 2013

21 Luther Pendragon is also working for the European Retailers and Tobacconists Association (CEDT) against the Tobacco Products Directive. In an e-mail sent to dozens of Brussels-based EU affairs journalists, the lobbying company promoted a protest action of tobacco retailers in several EU countries, offering to arrange interviews and providing pictures to illustrate press articles. On 7 September 2012, Oliver Kaye from Luther's Brussels office wrote: "On behalf of the CEDT – the European retailers and tobacconist association I am writing to let you know about protests involving 1000s of retailers that have been taking place in several European countries. Retailers have been protesting across Europe against imminent proposal due this quarter from the Commission which is set to ban tobacco displays in shops and to introduce plain packaging on cigarette packs. Events are taking place in Italy, France, Spain, Greece, Austria and Poland involving 1000s of retailers. Actions include retailers creating a "point of sale display ban" by covering up their shop displays using cloth and slogans in several countries, letters sent to national heads of state or government, meetings with political personalities, a press conference in the vicinity of the Polish president's house." See

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

22 <http://www.guardian.co.uk/business/2013/apr/28/plain-packaging-lobbyists-links-tobacco-company>

23 For example, http://www.yournextmp.com/candidates/pat_nurse,

24 ukip.org/content/latest-news/2705-smoking-ban-has-caused-misery

25 <http://www.ukip.org/content/latest-news/2908-further-moves-on-cigarette-ban-will-backfire-warn-ukip>

26 https://www.politicshome.com/uk/article/77332/conservatives_meps_ukip_owes_explanation_for_backing_tobacco_subsidies.html

27 <http://www.publicwhip.org.uk/mp.php?mpid=40665&dmp=811>

tobacco control organisations) will be calling on the Government – if it cannot make a decision in favour of standardised packaging – to ensure that Parliament gets an early chance to vote on the issue.

33. Opinion polls show clear public support for standardised packaging, A recent YouGov poll for ASH found that overall 64% of adults in Great Britain were in favour of standard packaging.²⁸

ENDS

²⁸ Total sample size was 12171 adults. Fieldwork was undertaken between 1st and 19th February 2013. The survey was carried out online. The figures were weighted and are representative of all GB adults (aged 18+).