International Trademark Association

Etienne Sanz de Acedo
Chief Executive Officer

655 Third Avenue, 10th Floor, New York, NY 10017-5646, USA
t: +1-212-642-1776 | f: +1-212-768-7796
inta.org | esanzdeacedo@inta.org

The Honorable Gan Kim Yong
Ministry of Health
16 College Road
College of Medicine Building
Singapore 169854

Via email: Email: Tobacco_Control@moh.gov.sg

Attention: Director, Epidemiology and Disease Control Division

June 21, 2018

RE: INTA Submission to Public Consultation on Singapore Ministry of Health Study on Standardised Packaging in relation to Non-Cigarette Tobacco Products

Dear Minister Gan Kim Yong,

The International Trademark Association (INTA) is pleased to submit these comments regarding the recent inclusion of the Study on Standardised Packaging in relation to Non-Cigarette Tobacco Products to the Singapore government's public consultation on proposed tobacco-control measures.

The International Trademark Association (INTA) is a global organization of 7,200 trademark owners and professionals from over 191 countries, including 64 members in Singapore and 289 members in the ASEAN region. INTA is a not-for-profit membership association dedicated to supporting trademarks to foster consumer confidence, economic growth and innovation. Founded in 1878, INTA leads in global trademark research, policy development, and education and training. More details about INTA and its roles are available at www.inta.org.

INTA commends efforts to address public health concerns in Singapore. We were pleased to submit comprehensive comments earlier this year during the initial public consultation phase of these proposals. Although we take no position on the health issues that are the focus of tobacco standardized or plain packaging, we strongly believe that the introduction of standardized packaging in Singapore would frustrate the ability of

trademarks to serve their function and would also amount to a serious encroachment on the rights of trademark owners as well as endanger consumers.

Regarding the findings of the research study available for public comment, INTA would like to call attention to and raise serious concern about the findings of the study that state, "The standardised packaging products were, on the whole, perceived as less appealing, low-end, and *fake* [emphasis added]."[1]

The study findings emphasize a concern raised by INTA in our previous submission that standardized packaging may serve to increase the trade in counterfeit tobacco products. If consumers believe that standardized packaging looks fake – as the study concludes – then counterfeiters would be able to take advantage of this confusion to exploit consumers.

Furthermore, the study also continues to erroneously conflate the role of trademarks as signs to distinguish the origin of a product or service from that of another, and other separate legal and business concerns such as advertising. The findings state that "…branded packaging of tobacco products acts as advertising platforms to attract consumers."[2] As stated in our last submission, trademarks, which include trademarks within "branded packaging" are not advertisements, but rather serve the aforementioned purpose of trademarks in distinguishing one producer from another.

Conclusion

In light of the foregoing, INTA reiterates that the standardized packaging proposals would deprive trademark owners of valuable property and violate Singapore's trademark legislation and international obligations. We strongly urge the government of Singapore to consider the highly negative effects standardized packaging would have on consumers and trademark owners, and on the strategically important area of IP and the future of Singapore's economy. INTA is confident that the Singapore authorities will be able to identify alternative, proportionate and less restrictive policy options that can achieve the country's important public health objectives without undermining well-established intellectual property rights.

[1] See page 3 at https://www.moh.gov.sg/content/dam/moh_web/e-Consultation/PublicConsult_StandardisedPackaging_Tobacco/Public%20Consultation%20on%20Proposed%20Tobacco-Control%20Measures%20in%20Singapore_HPB.pdf
[2] *Ibid*. page 4.

This submission was drafted with the assistance of the Asia-Pacific Subcommittee of INTA's Legislation and Regulation Committee. If you have any questions or concerns, please contact INTA's Asia-Pacific Chief Representative, Seth Hays at shays@inta.org.

Sincerely,

Etienne Sanz de Acedo

Chief Executive Officer
International Trademark Association