Ministry of Health
16 College Road
College of Medicine Building
Singapore 169854
Attention: Director, Epidemiology and Disease Control Division

Re: Study on Standardised Packaging in relation to Non-Cigarette Tobacco Products

June 22, 2018

EXECUTIVE SUMMARY:

The Taxpayers Protection Alliance (TPA) is submitting the following comments to the Ministry of Health regarding the release of the Health Promotion Board's qualitative study on standardised packaging in relation to non-cigarette tobacco products in Singapore. Proposals to regulate and standardize tobacco packaging and increase the size of graphic health warnings are of particular interest to TPA due to the fiscal and health implications for both Singapore and the entire world.

These comments are submitted for the purpose of calling attention to the harmful impacts that plain packaging has had in the countries it has been tried. The comment highlights objective evidence from multiple studies in multiple jurisdictions demonstrating that plain packaging has failed to achieve any of its stated public health outcomes. Furthermore, the comments recommend that the Government of Singapore instead pursue proven tobacco control measures and legalize vaporizers (which were made illegal as of 1 February 2018).

TAXPAYERS PROTECTION ALLIANCE

Introduction

In Australia, the Tobacco Plain Packaging Act of 2011 mandated the plain packaging of all tobacco products from 2012 onward. As is the case in Singapore, the legislative intent was to curb the use of tobacco products by preventing *"tobacco advertising and promotion of tobacco products and tobacco product packaging by making it an offence to sell, supply, purchase, package or manufacture tobacco products or packaging for retail sale that are not compliant with plain packaging requirements."*

With five years of data now available to analyze, it is clear that this legislation has failed to achieve its goal, with tobacco consumption increasing as a result of the implementation of plain packaging and a large series of tax increases. Furthermore, the legislation has had severe consequences to the detriment of taxpayers, consumers, and businesses. Additionally, the policy has significantly undermined intellectual property rights – a foundation of modern enterprise.

Consumption

Multiple studies have demonstrated that the consumption of tobacco has increased in Australia since the introduction of plain packaging legislation. These include:

- Official Australian Treasury figures demonstrate that, in the first 12 months following the implementation of plain packaging legal, tobacco volumes increased by 0.5 percent or about 115 million sticks[1].

- Australian Treasury data was further subjected to an independent econometric analysis by RMIT University. This found that 0.8% more cigarettes were sold in Australia within a year of the introduction of plain packaging than over the previous 12-month period, when adjusted for tax refunds paid to companies for non-compliant tobacco products.[2]

- A study by the University of Zurich in 2014 performed a trend analysis on the effect of plain packaging on the smoking prevalence on minors which *"fail[ed] to find any evidence for an actual plain packaging effect on Australians aged 14 to 17 years"*[3].

- A study by the prestigious London Economics released in November of 2013 undertook a detailed analysis on the effects of plain packaging on cigarette smoking since the law had been implemented. The key findings of this study

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[1] http://www.tobaccoinaustralia.org.au/chapter-2-consumption

[2] Davidson, S. and A. de Silva. 2014. The Plain Truth about Plain Packaging: An Econometric Analysis of the Australian 2011 Tobacco Plain Packaging Act. *Agenda: A Journal of Policy Analysis and Reform*. 21(1): 27 – 43.

[3] https://www.econ.uzh.ch/static/workingpapers.php?id=828

show that plain packaging has done little to deter individuals from purchasing cigarettes[4].

According to the report, *"Specifically, between the first and second wave following the introduction of plain packaging, the proportion of respondents indicating that they were daily smokers increased by 0.5 percentage points (to 20.0%), while the proportion responding that they were weekly smokers or less-than-weekly smokers increased by 0.1 percentage points (to 2.1%) and 0.3 percentage points (to 2.2%) respectively. In other words, the proportion of respondents indicating that they smoked tobacco products increased by 0.9 percentage points (from 23.4%to 24.3% between three and eight months following the introduction of plain packaging)."*

- According to a 2018 study by KPMG, the share of tobacco supplied in the black market increased from 14.3 percent in 2016 to a record 15 percent in 2017. Tobacco seizures at ports exceeded 120, with total contraband volume (264 tonnes) at levels not seen in a decade. The study's authors report that, *"Since 2016, there was a change in the mix of the illicit products consumed away from unbranded tobacco and towards manufactured cigarettes"*; contraband, branded products now account for the majority of illicit consumption. That is, plain packaging has actually resulted in more exposure to tobacco company branding within the growing illicit market. [5]

- According to the Australian Government's Institute of Health and Welfare, the decades-long decline in the number of smokers was *reversed* following the introduction of plain packaging, despite several rounds of tax increases making tobacco in Australia the most expensive in the world. While the number of smokers in Australia fell by 317,000 between 2010 and 2013 they increased 21,100 between 2013 and 2016[6].

- Over a year has elapsed since France banned branded cigarettes in January 2017. More packets of cigarettes have been sold in that country in the first post-ban year than the last pre-ban year, according to the French Customs Office (L'administration des Douanes).[7]

- Data published by the French Monitoring Centre for Drugs and Drug Addiction showed that tobacco products shipped to retailers increased by 0.6 percent during the first half of 2017, compared to the same period in the previous

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[4] http://londoneconomics.co.uk/wp-content/uploads/2013/11/London-Economics-Report-Australian-Prevalence-Final-Report-25-11-2013.pdf

[5] https://assets.kpmg.com/content/dam/kpmg/uk/pdf/2018/05/australia_illicit_tobacco_report_2017.pdf

[6] https://www.theaustralian.com.au/news/nation/more-smokers-lighting-up-despite-everincreasing-taxes/news-story/190014e7306548c49fc372dabb5a0555

[7] https://www.thelocal.fr/20170502/the-french-smoke-more-since-the-introduction-of-plain-packaged-cigarettes-in-france

year.[8]

- The French Minister of Health Agnès Buzyn admitted the failure of plain packaging, stating: "We know that plain packaging does not lead smokers to stop smoking…in 2016, the official sales of cigarettes have increased in France: plain packaging did not contribute to the decrease of official tobacco sales."[9]

The experiences of Australia and France therefore demonstrate that there is *no* evidence that plain packaging has any impact upon smoking rates and therefore no public health justification for the implementation of this policy.

Impact Upon The Black Market

The share of illicit tobacco in Australia significantly increased in Australia following the introduction of plain packaging legislation. Data from KPMG reveals that the percentage of illicit tobacco in Australia increased by 25 percent in the three years since the introduction of plain packaging, and that close to 15 percent of the Australian tobacco market is now comprised of illicit tobacco, representing a loss to $1.5 billion in tax revenue.[10] It is important to note that the absence of branding removes numerous protections in place to prevent counterfeiting, and in addition, makes illicit products relatively less unattractive compared to legal products and ultimately contributes to this trend.

Illicit trade in tobacco has become a major source of financing for international terrorist networks, and, with the price of tobacco multiple times higher than in neighboring countries, a significant part of tobacco sales in Singapore are already black-market, costing an estimated $347 million in forgone tax revenue. According to research by the International Tax and Investment Center and Oxford Economics, a significant percentage of tobacco sold in Singapore is black market. These illegitimate sales deprive the government of significant revenue and enrich terrorist organizations. While black market sales have fallen from a peak of 25 percent in 2013[11], any move towards plain packaging and the removal of brand protections would reverse this positive trend.

A US State Department report recently noted that tobacco smuggling, *"fuels transnational crime, corruption, and terrorism. As it converges with other criminal activities it undermines the rule of law and the licit market economy, and creates greater insecurity and instability in many of today's security "hot spots" around the*

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[8] https://www.ofdt.fr/ofdt/fr/tt171225.pdf

[9] http://www.assemblee-nationale.fr/15/cri/2017-2018/20180075.asp#P1117763

[10] https://home.kpmg.com/content/dam/kpmg/uk/pdf/2017/04/Australia-illict-tobacco-Report-2016.pdf

[11] http://www.oxfordeconomics.com/asia-illicit-tobacco

world. Illicit tobacco provides a significant revenue stream to illicit actors without the high risks and punishments associated with trafficking in narcotics or humans."[12]

We similarly draw your attention to a U.S. House of Representatives Homeland Security Committee report, which concluded that, *"Law enforcement officials in New York State [alone!] estimate that well-organized cigarette smuggling networks generate between $200,000-$300,000 per week. A large percentage of the money is believed to be sent back to the Middle East, where it directly or indirectly finances groups such as Hezbollah, Hamas, and al-Qaeda."*[13]

We note that the group Stop Child Predators has recently implored the Canadian Government to oppose plain packaging, stating that if *"S.B. 5 is implemented, you unwittingly help fund the black market for cigarettes which too often leads to the financing of narcotics, human trafficking, and terrorism."*[14] With Singapore a "Tier Two" country on the Office To Monitor And Combat Trafficking In Persons Watchlist[15] and classified as a destination country for victims,[16] any move to further enable trafficking as plain packaging will do should be considered anathema, and would seriously hinder the efforts of the Ministry of Manpower to enforce the provisions of The Prevention of Human Trafficking Act .

Business Implications

The damage to market-oriented economies around the world that plain packaging has inflicted cannot be underestimated.

Singapore consistently places as one of the highest in the world in terms of economic freedom, ranking Second in the World in both the Heritage Foundation and the Fraser Institute Index of Economic Freedom[17] [18], a key reason for the economic success of Singapore. Similarly, Singapore ranks highly in seventh place in the International Property Rights Index[19]. However, this success and the prosperity it has brought would be jeopardized by plain packaging.

We note a 2017 Coalition letter signed by 47 leading international organizations opposed to plain packaging noting that:

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[12] https://2009-2017.state.gov/documents/organization/250513.pdf

[13] http://www.foxnews.com/projects/pdf/Cigarette_smuggling_042408.pdf

[14] https://www.stopchildpredators.org/scp-blog/

[15] https://www.state.gov/j/tip/rls/tiprpt/2017/271117.htm

[16] https://www.state.gov/g/tip/rls/tiprpt/2008/105389.htm

[17] https://www.heritage.org/index/country/singapore

[18] https://www.fraserinstitute.org/economic-freedom/map?geozone=world&page=map&year=2015&countries=SGP

[19] https://www.internationalpropertyrightsindex.org/country/singapore

> *"The right to own property is a fundamental human right. Thus, the protection of property rights, physical and intellectual, is critical… Intellectual property rights (IPR) promote trade in developed and emerging economies. The importance of secure intellectual property rights is recognized in international treaties and conventions. … there is a strong positive correlation between a country's robust intellectual property rights enforcement and GDP per capita. the protection of intellectual property rights is crucial to the economic development of every country…denying a manufacturer the right to use its trademark to identify its product strikes at the very core principles of corporate identity and freedom."*

Businesses thrive on creating unique branding and having a product that can be differentiated from the competition. Laws that deny any type of specific branding kill competition, and leave consumers without the freedom of choice. Intellectual Property (IP) is a key component of the free market economy, and plain packaging amounts to a direct attack on IP. Strong IP protections encourage competition and help provide incentives to innovators and creators. Protecting IP is a key component to ensuring that businesses have the ability to stand out and produce goods and services that consumers need and want. Plain packaging laws weaken IP protections, which harms businesses and consumers.

Tobacco Harm Reduction

Instead of adopting policies that have failed to improve public health outcomes and have numerous negative consequences to reduce smoking rates, the Taxpayers Protection Alliance has been an advocate for using technology to reduce tobacco dependency, a practice known as *Harm Reduction*. As alternatives to traditional forms of tobacco are developed, tested, introduced, and ultimately refined and improved based on consumer use and response (as well as technological advancements), e-cigarettes represent significant benefits to public health.

According to the most comprehensive research conducted in this field, authored by eleven of the worlds most distinguished experts and published in the international journal Tobacco Control, **100,000 lives would be saved if most Singaporean smokers made the switch to e-cigarettes over the next decade [20].**

Smoking rates in Singapore have remained unchanged over the past decade. The Ministry's own consultation report notes that: *"In recent years, the rate of decline in smoking rates has been harder to sustain. The smoking rates have been fluctuating between 12% and 14% in the last 10 years, with no clear pattern of continuous decline."*

There is a proven way to help people quit smoking. Throughout the world, millions of smokers have successfully quit smoking through the use of e-cigarettes. Smoking rates in the UK and USA have significantly fallen since 2011 to record lows due to the

[20] Levy DT, Borland R, Lindblom EN, et al Potential deaths averted in USA by replacing cigarettes with e-cigarettes Tobacco Control 2018;27:18-25. http://tobaccocontrol.bmj.com/content/27/1/18

availability of safer and more effective alternatives to tobacco, specifically the use of e-cigarettes (or personal vaporizers). American adult smoking rates have fallen from 18.9 percent to a record low of 15.1 percent in just four years[21]. While similarly after a period of significant smoking rate reduction, the UK adult smoking rate stalled in the late-2000s, then sharply reduced between 2011 and 2014 at which point it hit a record low of 17.4%.[22] UK residents in the 18 to 24 age range have experienced a decline in smoking prevalence of 6.5 percentage points since 2010. In the UK on the whole, nearly 3 million adults now use e-cigarettes[23].

The UK Government and all major medical bodies now 'encourage' smokers to use e-cigarettes as a quit smoking aid. [24] Similarly, the US Food & Drug Administration (FDA) recently announced strong support for e-cigarettes in tobacco harm reduction.[25] The US Cancer Society recommends doctors to advise their patients to quit smoking using e-cigarettes[26] as does Cancer Research UK, which strongly recommends it[27].

This is hardly surprising, given that an overwhelming body of evidence finds that e-cigarettes are "around 95% less harmful than smoking"[28]. Similarly, studies have shown e-cigarettes as considerably more effective than traditional nicotine replacement therapies such as nicotine gums and patches.[29] E-Cigarettes also pose no threat to bystanders, in contrast to the "passive smoking" incurred through consumption of traditional products[30].

We also draw your attention to a study from The Royal College of Physicians' , which found that "e-cigarettes are likely to be beneficial to UK public health[31]." Furthermore, a report from Public Health England, an agency of the UK Government,

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[21] https://www.cdc.gov/nchs/nhis/nhis_2015_data_release.htm

[22] http://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/drugusealcoholandsmoking/datasets/adultsmokinghabitsingreatbritain

[23] https://www.theguardian.com/society/2017/may/08/majority-of-vapers-have-quit-tobacco-survey

[24] http://www.healthscotland.scot/publications/e-cigarettes-consensus-statement

[25] https://jamanetwork.com/journals/jama/article-abstract/2653954

[26] https://www.cancer.org/healthy/stay-away-from-tobacco/e-cigarette-position-statement.html

[27] http://www.cancerresearchuk.org/about-cancer/causes-of-cancer/smoking-and-cancer/e-cigarettes

[28] https://www.gov.uk/government/news/e-cigarettes-around-95-less-harmful-than-tobacco-estimates-landmark-review

[29] https://www.ncbi.nlm.nih.gov/pubmed/25896067

[30] ibid.

[31] https://www.rcplondon.ac.uk/news/promote-e-cigarettes-widely-substitute-smoking-says-new-rcp-report

determined that "e-cigarettes are significantly less harmful to health than tobacco and have the potential to help smokers quit smoking." [32]

This report, updated again on February 5 2018, emphasized that:

- vaping poses only a small fraction of the risks of smoking;
- switching completely from smoking to vaping conveys substantial health benefits; and
- E-cigarette use is associated with improved quit success rates over the last year and an accelerated drop in smoking rates across the country

We further note that PHE's evidence review comes just a few weeks after the US National Academies of Sciences, Engineering and Medicine released their own report on e-cigarettes. Their conclusion on e-cigarette safety also finds that, based on the available evidence, "e-cigarettes are likely to be far less harmful than combustible tobacco cigarettes."

Conclusion

The consequences from plain packaging would be harmful for Singapore on a number of fronts. The evidence overwhelmingly demonstrates that plain packaging fails to achieve any positive public health outcome, while illicit trade takes a significant toll on the economy. Resulting black market activity supports terrorist organizations, while businesses lose their ability to retain their intellectual property.

In contrast, e-cigarettes are a proven, safe, effective way for persons to quit smoking. According to the best estimates, allowing sales would save over 100,000 lives in Singapore if adopted.

As such, we call upon the Ministry to drop all attempts to introduce failed plain packaging legislation and instead immediately reverse the ban on e-cigarettes and vaporizers.

We thank the Ministry for allowing us to present these comments and would be happy to follow up on any of these points if necessary.

David Williams
President

[32] https://www.gov.uk/government/publications/e-cigarettes-and-heated-tobacco-products-evidence-review/evidence-review-of-e-cigarettes-and-heated-tobacco-products-2018-executive-summary