From: Juan Domingo Muñoz Andreu <jdmunoz@adelta.es>
Sent: Friday, 2 March 2018 8:46 PM
To: MOH Tobacco Control (MOH) <Tobacco_Control@moh.gov.sg>
Subject: Public Consultation on Standardised Packaging and Enlarged Graphic Health Warnings for Tobacco Products

To the Epidemiology and Disease Control Division Director, Ministry of Health:

Adelta, the main Spanish National Manufacturers of Tobacco Products Association, refers to your press release of last February the 5th of your **"Public Consultation on Standardised Packaging and Enlarged Graphic Health Warnings for Tobacco Products"** which announce, among other things, that you will be seeking the public's views up until March the 16th on the potential adoption of standardized packaging in Singapore. This follows on from a similar exercise undertaken in early 2016.

Adelta company members http://www.adelta.es/qs_aso.lasso believes that appropriate and proportionate regulation of tobacco products is necessary and, right in order to protect public health, we write to share our views and concerns in respect of this public consultation, in particular on its proposal to mandate standardised packaging and the ensuing consequences that would inevitably result from any implementation of such extreme regulation.

Plain packaging is in fact a ban on branding: it removes trademarks, logos, non-prescribed colours and graphics and only permits the use of a brand name in a standard font/size. It deprives legitimate tobacco companies of the value of their brands, impedes investments and creates ample opportunities for criminal activities.

The available international evidence, including the studies that were considered by your Ministry, clearly demonstrates that plain packaging does not change adult smoking behaviour and, accordingly, does not cause a reduction in tobacco consumption.

Up today, Indonesia, Dominican Republic, Cuba, Honduras, Malawi, Nicaragua, Zambia, Zimbabwe, Denmark, Switzerland, Germany, Italy, Sweden, **Spain**, Portugal, Greece, Bulgaria, Slovakia and Czech Republic are amongst the countries that remain opposed to the introduction of plain packaging provisions.

Other countries like The Netherlands, Taiwan, Brazil and Belgium are amongst the ones that earlier considered the introduction of plain packaging, however they are nowadays exploring less restrictive regulatory measures and studying the full impact of plain packaging before proceeding.

International reputable Intellectual Property Rights and business organizations continue to raise concerns over plain packaging and to oppose the measure. The International Trademark Association (INTA), the International Chamber of Commerce (ICC) and MARQUES are amongst them. Even recently, the French health minister acknowledges the failure of plain packaging in changing the French smoking behaviour.

Whereas your Consultation claims that plain packaging was a success in Australia, the official data over the last five years tells a different story:

- The results of the Post-Implementation Review that were released by the Australian Government in early 2016 are ambiguous at best. On the one hand, the Government claims that *"tobacco plain packaging is achieving its aim of improving public health in Australia and is expected to have substantial public health outcomes into the future".* On the other hand, the Government acknowledges that it was impossible to analyse the full effect of plain packaging, as a number of regulatory measures (e.g. larger health warnings and tax increases) had come into force simultaneously.

- Interestingly, the most recent official data from Australia, which was dismissed by the Singaporean government, reveals that the long-term decline in smoking prevalence has come to a halt after plain packaging was introduced: *"While smoking rates have been on a long-term downward trend, for the first time in over two decades, the daily smoking rate did not significantly decline over the most recent 3 year period (2013 to 2016)"*.

Instead, the fundamental flaws of the plain packaging experiment in Australia are reinforced by the policy's discernible negative impact on competition, market dynamics and illegal trade:

- KPMG's analysis over the recent years the methodology of which has been acknowledged by Australian public experts as "*probably the most appropriate way of collecting that type of information and tracking it over time",* demonstrates that the level of illegal tobacco consumption has grown since plain packaging was introduced in Australia, reaching 13.9% of total consumption and representing about AUD 1.61 billion excise value loss for the Australian government in 2016. In addition, the Australian Border Force has seized considerable volume of illegal cigarettes, many of which contain *"metal shavings and even bird droppings"* that may risk creating serious health hazards for consumers of these products.

- Plain packaging has largely contributed to the price becoming the most important factor of product selection, depriving premium brand-owners of the value of their brands. Down-trading has dramatically reduced the margins for all in the supply chain over the last few years.

While the Australian experience remains the key indicator of the effects of plain packaging, the data emerging from the early stages of the plain packaging implementation in the UK and France is pointing in the same direction:

- Data published by the French public authorities and quoted by the French health minister demonstrates that the combination of plain packaging and the requirements of the revised Tobacco Products Directive 2014/40/EU's have not had any discernible effect on tobacco sales in France.

- The first counterfeit 'plain' packs have been officially discovered in the UK: *"Following a tip-off, Retail Express was sold a plain pack counterfeit of a premium brand by a London newsagent for £10.50. The retailer took a legitimate pack out of the gantry and swapped it out with a fake pack, while processing the card transaction"*.

This precedent is even stressed by the representatives of the World Health Organization (WHO): *"We are also watched by sugar and alcohol products manufacturers, who see the tobacco control movement as a precursor to threats they now face from public health campaigns. These industries fear a united international community acting on behalf of consumers. In the coming days, I hope their fears will be fully justified as we take further steps to end the tobacco epidemic"*.

The experience in Australia shows that plain packaging creates burdensome conditions for retailers in view of additional costs associated with increased transaction times, customer frustration, inventory management delays and, finally, the increased opportunities for criminal activities. These concerns were also echoed by retailers in countries that considered the introduction of the measure.

In light of the detrimental consequences of plain packaging highlighted in the foregoing paragraphs, we encourage the Singapore Government - in its capacity as a supporter of free trade and of intellectual property rights - not to implement such a far-reaching and damaging regulation.

We request at a minimum that the Singapore Government delay any consideration of plain packaging until after the final outcome of the WTO Dispute, inclusive of any appeal to the WTO Appellate Body, and strongly encourage it to carefully review the effectiveness of plain packaging in France, the United Kingdom and Ireland - as well as assess any further data emanating from Australia - before proceeding further with any plans to implement such a restrictive and detrimental policy in Singapore.

Thanking your attention,

Juan Domingo Muñoz Andreu

Director Técnico

ADELTA

Comprometidos con la Industria del Tabaco

C/ Golfo de Salónica, 27 - 5º A

28033 Madrid

Tlf: +34 914 312 472

jdmunoz@adelta.es

www.adelta.es

No me imprimas si no es necesario. Protejamos el medio ambiente.

De conformidad con lo dispuesto en la LO 15/1999, de 13 de diciembre, de Protección de Datos de Carácter Personal y en la L 34/2002, de 11 de julio, de Servicios de la Sociedad de la Información y de Comercio Electrónico, le comunicamos que los datos de carácter personal utilizados en este envío quedarán registrados en el fichero correspondiente inscrito en la Agencia Española de Protección de Datos cuya titularidad ostenta la **ASOCIACION EMPRESARIAL DEL TABACO.** Puede ejercer sus derechos de acceso, rectificación, cancelación y oposición mediante comunicación escrita a **GOLFO DE SALONICA 27, 28033 MADRID** o dirigida al correo electrónico

remitente. Le notificamos que este mensaje va dirigido exclusivamente a la persona designada como destinatario y que la información que contiene es confidencial. Si Vd. ha recibido este mensaje por error, le rogamos que nos lo comunique mediante correo electrónico remitido a nuestra atención y proceda a su eliminación, tanto del texto de cobertura como de cualquier documento adjunto al mismo, quedando prohibida cualquier divulgación, distribución o copia del mismo.

In accordance with the Organic Law 15/1999, of 13 December, on Personal Data Protection, and Law 34/2002, of 11 July, on the Information Society Services and Electronic Commerce, we inform you that the personal data used in this remittance will be registered in the corresponding file, inscribed in the Spanish Data Protection Agency and owned by **SPANISH TOBACCO ASSOCIATION**. You may exercise your right to access, amend, cancel and oppose to such data by means of a written communication sent to GOLFO DE SALONICA 27, 28033, MADRID, or sent to the sender of this e-mail. We inform you that this message is exclusively sent to the person appointed as addressee and that the information herein contained is confidential. Should you have received this message by mistake, we kindly ask you to inform us by sending an e-mail to us and to proceed to eliminate both the body of the text and the attached documents, the disclosure, distribution or copy of which are prohibited.