IAA Global
33 West 18th Street, suite 214
NY, NY 10011

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

March 5, 2018

RE: Public Consultation on Proposal to Introduce Standardized Packaging of Tobacco Products in Singapore

Dear Minister,

The International Advertising Association (IAA) represents over 3,000 individual members across corporate, marketing services, organizational and academic sectors – all involved in the branding, communications and marketing disciplines around the globe.

We are writing to you today in order to express our concerns over the recently published draft of a new tobacco law in Singapore The IAA fully shares your ministries desire to limit the harm caused by smoking and to promote public health by regulating tobacco products and their consumption. However, we are deeply concerned about one measure that will not achieve the stated public health objective but at the same time will undermine the essential function branding has for economy and society. That measure is the standardized packaging, (plain packaging) as being considered.

The International Advertising Association has long advocated for the freedom of commercial speech and defends a responsible communications industry against unwarranted advertising and marketing bans and restrictions. The IAA strongly believes that brand differentiation exists to facilitate consumer choice, information and convenience.

Plain packaging will vastly increase consumer confusion without discouraging the use of the product itself. Limiting the ability to brand limits the ability to differentiate and compete. Limiting the ability to compete is a restriction of trade. Simply said, business is based on the ability to compete, and this proposal takes that away.

As demonstrated in Australia where plain packaging legislation has been implemented, the proposed plain packaging regulations may well actually facilitate the production of counterfeits and bootlegging in Singapore, without any resulting in any decrease in smoking, or improvement of product safety.

The IAA has long believed that trademarks and trade dress, the "branding of a product" should not be unduly restricted with regard to legally sold products. Trademarks (brands) are recognised legally as property rights in Singapore, and are thus protected under various national and international laws and treaties. Plain packaging legislation detrimentally impacts the rights of trademark owners and deprives those owners of the use of the intellectual property as the law intended that trademark to be used. Clearly, restricting the ability to use a trademark as intended, to remove the ability to identify the source of a product, to remove the ability to differentiate one product from its competitor also detrimentally impacts the flow of trade, the growth of markets, the encouragement of competition.

Were plain packaging to be implemented for one category of products, a dangerous precedent is created that then could then be imposed on other categories (such as certain food products, alcohol beverage products, infant formula, among others) in the name of furtherance of seemingly well-intended goals. However, in the case of the immediate proposals, the intended goal of reducing youth smoking, and discouraging smoking generally will not be accomplished by passage of regulations which prevent valid and legal trademarks from being used as intended. Smokers having chosen to smoke will very likely continue to smoke. A "brand" on the package does not cause smoking, but removal of the ability of a trademark owner to utilize its brand and trade dress on a legal product will interfere with consumer clarity, encourage confusion and will also create a dangerous marketing and advertising precedent In Singapore.

IAA strongly believes that the draft as written prevents companies from using established intellectual property, and in taking the use of established trademarks away, the draft if enacted establishes a very dangerous precedent for all legally branded products.

On the basis of all the above, we sincerely ask you to consider our comments and delete the plain packaging requirements from the draft proposal.

We thank you for the opportunity of contributing to the consultation.

Respectfully submitted,

/s/ Dagmara Szulce
Managing Director
International Advertising Association