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February 21, 2018

Ministry of Health
College of Medicine Building
16 College Road
Singapore 169854
Tobacco_Control@moh.gov.sg
Attn.: Director, Epidemiology and Disease Control Division

Re: Public Consultation on the potential adoption of Standardised Packaging

The Association of European Business (AEB) believes that adequate and proportionate state regulation of consumer goods industries is both necessary and justified in order to protect public health, however we would like to share our views and concerns in respect of the Ministry of Health's (MoH) public consultation on its proposal to introduce mandatory standardised packaging and the ensuing consequences that would inevitably result from any implementation of such a regulation.

Plain packaging deprives businesses of their property

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 businesses of the value of their brands, impedes investments and creates opportunities for increased criminal activities.

The available evidence clearly demonstrates that plain packaging does not change smoking behaviour and, accordingly, does not cause a reduction in tobacco consumption.

Plain packaging would infringe intellectual property rights

Plain packaging represents an extraordinary deprivation of companies' most valuable assets – its brands and trademarks – and as a consequence an infringement of these companies' intellectual property rights. Any mandating of plain packaging for tobacco manufacturers sets a dangerous precedent for all trademark owners in that it opens the door to extend this violation of intellectual property rights across a whole range of other consumer products and to other industries.

Plain packaging would increase illegal trade

The spread of plain packaging to other consumer good categories and industries - such as the food industry - would make counterfeit and contraband products easier to make, distribute and sell which would result in a significant increase in demand for illegal products and have a negative impact on legitimate owners. As such, the implementation of any plain packaging regulation in Singapore would only add to and further exacerbate the existing significant problem of contraband tobacco products in the country, while potentially also causing an increase in the levels of

counterfeit tobacco products, as plain packaging would only make it easier for criminal groups to manufacture imitation products.

Plain packaging would have a serious and widespread negative impact on consumers and retailers

Packaging conveys guarantees of origin, quality and investment. Packaging is also essential to trade in that it allows consumers and retailers to identify and distinguish products at point of sale. The implementation of plain packaging would impair these fundamental functions of packaging, thereby negatively impacting consumers as well as retailers given they would no longer be able to differentiate effectively between brands in the supply chain and at point of sale, leading to increased transaction times.

Other unnecessary burdens and increased costs for retailers referred to by Australian retailers, who have experienced plain packaging first-hand, include customer frustration, inventory management delays, as well as heavier staff workloads and training requirements. These concerns were also reaffirmed by retailers in countries that considered the introduction of the measure.¹

Plain packaging furthermore has had a direct negative impact on the retail tobacco sector as a result of the decline in legitimate sales revenues driven by downtrading and an increase in illegal trade, leading to loss of business and unemployment throughout the sector and its supply chain, especially amongst smaller, family owned and operated retail stores, which rely heavily on the revenue derived from tobacco sales².

Plain packaging could have a negative impact on trade between Singapore and the Eurasian Economic Union (Russia, Kazakhstan, Belarus, Armenia and Kyrgyzstan)

It will contradict the basic principles of foreign trade policy of the Union, notably *"protection of the rights and legitimate interests of participants of foreign trade activities of the Member States, as well as the rights and legitimate interests of manufacturers and consumers of goods and services"* and *"respect for the rights of foreign trade participants"* (Article 33: Objectives and Principles of Foreign Trade Policy of the Union of the EAEU Treaty).

In light of the aforementioned concerns about the negative and disruptive consequences of plain packaging, we encourage the Singapore Government as a proponent of free trade and of intellectual property rights not to implement such a disproportionate and inadequate regulation.

Many thanks for your attention to our concerns.

Sincerely,

Maria Karas



Vice-Chairman

¹ See at: <http://www.cbc.ca/news/canada/prince-edward-island/acsa-cigarette-plain-packs-1.4087287>.

² See via: Australian retailers also claim that their revenues are being "devastated" by more than 600 organized crime-backed illegal cigarette and tobacco shops costing up to USD 4 billion a year in lost profits and taxes. See at: <http://www.afr.com/news/policy/tax/600-illegal-tobacco-shops-are-devastating-retailers-industry-warns-20170831-gv7w7a>.