



***Association for Intellectual Property Protection  
«BelBrand»***

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Office 330, 23/1 Pobeditelei Avenue, Minsk, Republic of Belarus 220004  
tel.: +375 17 203 09 39; e-mail: info@belbrand.com

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

**Re: Response to the Ministry of Public Health's Public Consultation on the potential adoption of Standardised Packaging**

The "BelBrand" Association for Intellectual Property Protection (hereinafter referred to as the Association) is a voluntary union of legal entities and individual entrepreneurs engaged in their own production and sales of goods and rendering services; and in sales of goods of famous foreign trademarks and brands, as well as in works and services for the protection of intellectual property rights.

One of the key activities of the Association is establishing contacts with national and international organizations active in the sphere of intellectual property rights protection and related areas, representing the interests of the members of the Association at these organizations, creating a platform for professional debates on topical issues of intellectual property protection, and defending the business interests at drafting normative legal acts in the sphere of intellectual property both at the country and international levels.

In the course of its activities, the Association has implemented a number of projects, namely: five International Conferences in Minsk (in 2011, 2013, 2014, 2015 and 2017); the International Conference in Almaty (2013); the Third International Forum "Anti-Counterfeit-2015" in Minsk; the Nationwide Sociological Study "Youth Brand" (2015-2017); the Project "Legal Trade – Safe World", supported by the PMI; and a number of Discussion Clubs.

All the activities are united by a common mission – searching for efficient ways and means to combat illegal trade, the spread of counterfeit products and other phenomena that violate the international principles of intellectual property protection and undermine the foundations of national economies by violating owners' rights.

At present, one of the phenomena that attract increased attention of the right holders of well-known tobacco brands is the promotion and lobbying of the transition to product simple packaging as an additional factor for reducing the

number of smokers. The Association is confident that the appropriate and proportionate regulation of tobacco products is both a need and a correct measure to protect public health, but to enforce it, efficient approaches are needed. The analysis of the global situation shows that the introduction of a simple standardized packaging only fails to solve the main task of public health protection, but violates, at the same time, the owner's rights to the registered intellectual property, and creates favourable conditions for the spread of forgeries and counterfeits.

**Indeed**, the 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 ample opportunities for criminal activities.

Many countries (Indonesia, Dominican Republic, Cuba, Honduras, Malawi, Nicaragua, Zambia, Zimbabwe, Denmark, Switzerland, Germany, Italy, Sweden, Spain, Portugal, Greece, Bulgaria, Slovakia and Czech Republic) are among those oppose the plain packaging.

Some others (the Netherlands, Taiwan, Brazil and Belgium), which had earlier supported the plain packaging, now, however are exploring less restrictive regulatory measures and studying the complete influence of the plain packaging before proceeding.

Authoritative IPs and business organizations continue raising concerns over the plain packaging and opposing the enforcement of the measure. The International Trademark Association (INTA), the International Chamber of Commerce (ICC) and the MARQUES are among them.

We can quote many evaluation and scientific studies that evidence that the positive role of simple packaging in the fight against tobacco smoking, at least has not been proved. This, in particular, is evidenced by the analysis of the situation in Australia, which is presented in support of the advantages of introducing the simple packaging. Whereas the Consultation claims that the plain packaging was a success in Australia, the official data over the last five years tells a different story.

#### **For reference:**

The outcomes of the Post-Implementation Review (available at: <http://ris.dpmc.gov.au/2016/02/26/tobacco-plain-packaging>), released by the Australian Government in early 2016 are ambiguous, at the 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"*. However, 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, indicates that the long-term decline in smoking prevalence has come to a halt after the 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)" (See the National Drug Strategy Household Survey (NDSHS) at: <https://www.aihw.gov.au/reports/illicit-use-of-drugs/ndshs-2016-key-findings/contents/summary>).*

The 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 the 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 (<https://home.kpmg.com/content/dam/kpmg/uk/pdf/2017/04/Australia-illicit-tobacco-Report-2016.pdf>). Besides, 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.

The Australia's experience shows that the main factor in choosing a particular product is the price. This not only worsens the situation for commodity producers and sellers, but also creates a favourable ground for the spread of low-quality counterfeit products. Such examples are already known (<https://www.betterretailing.com/first-fake-plain-packs-discovered>).

The "BelBrand" Association is closely cooperating with the Eurasian Economic Commission and with the organizations that protect intellectual property in the partner countries of the Eurasian Economic Union (EAEU). The unified customs and economic space contributes to the development of economic relations, but also creates additional opportunities for infiltration of counterfeit products into the EAEU, if favourable conditions for production and distribution thereof appear in the region. Therefore, the Association, while representing the interests of its members and carrying out its mission of protecting the intellectual property, appeals to agencies of various countries aiming to warn about possible consequences of certain steps in the field that relates to the protection of intellectual property.

**Moreover, the plain packaging of tobacco products would set a precedent for a similar measure to be applied across a whole range of other consumer products.**

Thank you for your attention to our business concerns.

Sincerely,



Albert Taipov,  
Chairman, "BelBrand" Association for Intellectual Property Protection