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Sir Cyril Chantler
Independent Review Chair
Plain Packaging Review
c/o King's College London
Room 1.2 Hodgkin Building,
Guy's Campus
London SE1 1UL

10 January 2014

Response of the European Carton Makers Association to the Independent Review into standardised packaging of tobacco

Dear Sir Cyril Chantler,

I am writing to you as President of the European Carton Makers Association (ECMA) in response to the Independent Review into standardised packaging of tobacco. ECMA is the established forum and officially recognised umbrella organisation for national carton associations throughout Europe. Founded in 1960 to promote the interests of one of the most diverse sectors of the packaging industry, ECMA today represents approximately 500 carton producers which account, by volume, for 90 per cent of the total European market. The total EU turnover for the sector as a whole is €9 billion. Further information about ECMA and its members is available at www.ecma.org.

The present independent review is particularly relevant to ECMA given that its members will ultimately be responsible to implement any legislated requirements concerning the packaging of tobacco. As experts in packaging, and quite apart from the economic hardships such policies could entail for our industry, it is the considered view of ECMA's membership that standardized packaging could have important negative and unintended consequences on UK Health Policy if the production and sale of counterfeit product is not properly addressed. More particularly, standardised packaging risks leading to the increased availability of cheaper, unregulated and potentially harmful product becoming more widely available on the market to the detriment of both tobacco control policies and health policy, particularly for youth. This would of course undermine the very objectives the health policy seeks to bring about in the first place.

ECMA has responded to the UK Government Department of Health 2012 Consultation on the issue of standardised packaging of tobacco products. Much of that discussion is pertinent to the issue at hand and we therefore incorporate that response by reference and ask you to please consider it together with this letter.

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Review to Address Standardised Packaging

As a preliminary remark, we note the email address for the Review references "Plain Packaging". Plain Packaging must be distinguished from "standardised packaging" which is used in your terms of reference and discussed throughout your method statement. ECMA opposes Plain Packaging such as that introduced in Australia for many reasons, including our belief that by removing packaging complexity – or reducing it to a static level -- policy makers are actually facilitating counterfeit production. ECMA in principle also opposes standardised packaging considering its public health benefits as highly uncertain, however, it recognises that its effects on health policy could differ depending on whether packaging complexity is maintained or eliminated. Standardised packaging does not necessarily equate to a removal of all packaging complexity. The current EU compromise text approved by the trialogue – Council, European Parliament, European Commission - on 16 December 2013 with regard to the revision of the EU Tobacco Products Directive ("TPD") recognises this issue and seeks to maintain some packaging complexity.

Is Packaging the Issue?

In your method statement, you frame the issue as whether the introduction of standardised packaging is likely to lead to a decrease in tobacco consumption, and particularly a decrease in the risk of children becoming addicted. The premise here, as with other plain and standardised packaging proposals, is that the packaging attracts youth to begin to smoke. ECMA does not believe that the evidence entirely supports this premise. Indeed, the European Commission's own evidence confirms that packaging is not the real problem. The Special Eurobarometer 385 Report[1], which is often quoted by the Commission and proponents of plain packaging, states that:

- 79% of respondents say that peer influence is the most commonly cited reason to start smoking (page 69);
- 3% cited packaging as a reason to start smoking (page 69);
- 1% of respondents indicated that the shape or texture of a pack made consumers think the brand was less harmful than other brands (page 34).

ECMA considers that any measures to address the issue should be commensurate with the problem.

ECMA would also note that standardised packaging is not necessary to address misleading packaging issues, such as those often provided as examples in support of restrictive packaging measures. Such matters may be addressed under existing laws or directly as the EU has chosen to do in the proposed TPD.

[1] "Attitudes of Europeans towards tobacco", Special Eurobarometer 385, March 2012;

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Standardised Packaging leads to increased production and supply of counterfeit cigarettes

Decreasing the consumption of tobacco in the legitimate market is not a health policy victory if the price is higher overall consumption due to a burgeoning counterfeit market. Counterfeiting is a health policy consideration because it will undermine health policy objectives. Too often in the debate over tobacco, the counterfeit issue has been glossed over, dismissed as being well understood or addressed through other policy measures, or confused with smuggled (legal or illegal) product. While both counterfeit and smuggled product are illicit, the enforcement strategies to combat them are different. Neither the impact assessment[2] accompanying the Government's consultation nor the EU's impact assessment accompanying its proposed revision for the Tobacco product Directive adequately addressed this subject.

In ECMA's response to the Department of Health Consultation, ECMA details why standardised packaging will increase the production and supply of counterfeit cigarettes on the market, namely:

1) a lowering of barriers to market entry for counterfeiters;
2) increased economic incentives for counterfeiters, and
3) limits placed on consumers to authenticate legitimate product.

If regulation entails multiple step production processes being reduced to single step processes and manufacturing input costs that add design features and functionality being eliminated, then the price points (economic incentives) for criminal enterprise will become more interesting for criminals.

It has been argued that packaging standardisation is akin to deregulation for industry and therefore should be supported as such by the legitimate industry, i.e. lower costs are good for business. This argument makes no sense from a public health perspective if it facilitates counterfeits. Packaging complexity is the first and best line of defence against counterfeit product. It is the cumulative impact of hi-tech printing, enhanced design features and the constant updating of the package design which pose substantial and expensive barriers to illegal manufacturing. This must not be undermined in any standardised packaging measures.

Health Warnings, tracking and tracing measures and holograms are inadequate prevention measures

ECMA would also like to comment briefly on pictorial health warnings, security measures (e.g., holograms) and tracking and tracing features that are often cited in response to concerns raised about the counterfeiting risks associated with standardised packaging. Pictorial health warnings cannot serve as a deterrent to counterfeits as they pose no barrier to counterfeiters. They can be produced (and re-produced) using low cost printing techniques. Holograms can assist but as a static measure are insufficient alone and can be copied. The European Commission's impact assessment on the proposal for a revision of the Tobacco Products Directive recognises that security features will

[2] Commission staff working document Impact Assessment Accompaying the document Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products, 19 December 2012

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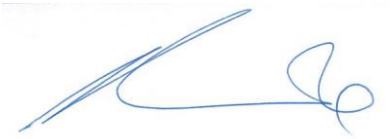
have a 10 % impact on the existing illicit trade problem and that providers of this technology told the Commission that it could have an impact 'only to a limited degree' (p. 111[3]). Tracking and tracing features are a discovery tool that authorities use to investigate contraband where a problem has been discovered. The Commission here also acknowledges that tracking and tracing systems would '…not specifically address the issue of counterfeiting which is important in terms of ensuring a high level of health protection in line with the TPD' (p. 112[4])

In sum, if standardised packaging acts to reduce packaging complexity then such measures increase the risks that UK health policy will not achieve its objectives. Packaging complexity must be maintained in any policy initiative.

I thank you for your consideration of this issue. ECMA is ready to discuss this matter with you at your convenience should you have questions.

Yours sincerely,



Andreas Blaschke

President

European Carton Makers Association

[3] Commission staff working document Impact Assessment, page 111
[4] Commission staff working document Impact Assessment, page 112