

Consultation on standardised packaging of tobacco products

DH INFORMATION READER BOX

| | | |
|------------------------|----------------------------|-----------------------------------|
| Policy | Clinical | Estates |
| HR / Workforce | Commissioner Development | IM & T |
| Management | Provider Development | Finance |
| Planning / Performance | Improvement and Efficiency | Social Care / Partnership Working |

| | |
|----------------------------|--|
| Document Purpose | Consultation/Discussion |
| Gateway Reference | 17194 |
| Title | Consultation on standardised packaging of tobacco products |
| Author | Department of Health |
| Publication Date | 16 April 2012 |
| Target Audience | PCT Cluster CEs, NHS Trust CEs, SHA Cluster CEs, Directors of PH, Local Authority CEs, Businesses, Public Health Organisations, Academics, Members of the Public |
| Circulation List | Care Trust CEs, Foundation Trust CEs , Medical Directors, Directors of Nursing, Directors of Adult SSs, PCT Cluster Chairs, NHS Trust Board Chairs, Special HA CEs, Allied Health Professionals, GPs, Communications Leads, Directors of Children's SSs, Voluntary Organisations/NDPBs |
| Description | A consultation to consider options to reduce the promotional impact of tobacco packaging, including standardised (or "plain") packaging. The consultation is being run on a UK-wide basis by by the Department of Health with the agreement of the Devolved Administrations |
| Cross Ref | Healthy Lives, Healthy People: A Tobacco Control Plan for England |
| Superseded Docs | |
| Action Required | |
| Timing | Closing date for consultation responses is 10 July 2012 |
| Contact Details | Tobacco Packs Consultation Department of Health 7th Floor Wellington House 133-155 Waterloo Road London SE1 8UG http://consultations.dh.gov.uk |
| For Recipient's Use | |

Consultation on standardised packaging of tobacco products

1. Purpose of this consultation

- 1.1 The purpose of this consultation is to seek the views of interested people, businesses and organisations on a policy initiative that would require the packaging of tobacco products to be standardised, the aim being to improve public health by reducing the use of tobacco. Within the context of tobacco packaging, standardised packaging is sometimes referred to as 'plain packaging'.
- 1.2 The Department of Health (England), the Chief Medical Officer's Directorate (Scotland), the Health and Social Services Directorate General (Wales) and the Department of Health, Social Services and Public Safety (Northern Ireland)¹ each have responsibility for improving public health, including reducing tobacco use through the implementation of comprehensive tobacco control strategies. Across the United Kingdom, we all wish to explore whether further policy action should be taken on the packaging of tobacco products. The results of this consultation will contribute to the future formulation of tobacco control policies.
- 1.3 Any decisions to take further policy action on tobacco packaging will be taken only after full consideration is given to consultation responses, evidence and other relevant information. If it is decided to pursue a policy that would require legislation, further consideration will be given to the most appropriate approach.
- 1.4 We invite your responses to the consultation questions listed at Appendix A, on the consultation-stage impact assessment (published alongside this consultation) and on the impact assessment questions at Appendix B.

2. Introduction

- 2.1 Tobacco use remains one of the most significant challenges to public health across the United Kingdom. While rates of smoking have declined over past decades, in recent years this decline has lost momentum. Today around 21 per cent of adults in Great Britain smoke. Smoking is harmful not only to smokers but also to the people around them.
- 2.2 Smoking is the primary cause of preventable morbidity and premature death, accounting each year for over 100,000 deaths in the United Kingdom. The Department of Health and the Devolved Administrations are each considering additional action that could be taken to reduce tobacco use.
- 2.3 Treating smoking-related illness costs the National Health Service (NHS) billions of pounds each year. However, the wider economic costs of tobacco use are much greater than just costs to the NHS. They include losses in productivity from smoking breaks and ill-health absences, the cost of cleaning up cigarette butts, the cost of smoking-related house fires

¹ Collectively referred to as the Department of Health and Devolved Administrations in this consultation document.

and the loss in economic output from people who die from diseases related to smoking or exposure to secondhand smoke. Reducing tobacco use will benefit not only NHS finances, but also the wider local and national economy.

- 2.4 Smoking rates are much higher in some communities and in specific social groups, including among those with the lowest incomes and those with mental illnesses. Smoking is the biggest single cause of inequalities in death rates between the richest and poorest people in our communities.
- 2.5 Reducing the uptake of smoking by young people is a key public health goal. Smoking is an addiction acquired largely in childhood and adolescence, and young people can rapidly develop nicotine dependence. The early age at which people become regular smokers is a cause for concern. Two-thirds of current and ex-smokers in Great Britain say that they started smoking regularly before they were 18 years old, with 39 per cent saying they were smoking regularly before the age of 16.
- 2.6 Another obstacle to reducing smoking prevalence is the fact that smokers can find quitting extremely challenging. Tobacco addiction is complex, having physical, psychological and social dimensions that manifest differently in different people. By successfully quitting smoking, people can avoid smoking-related diseases and live longer, whatever their age. Evidence shows that people who are successful in quitting smoking are also more able to make other changes in their lives that will benefit their health and wellbeing. The majority of smokers in Great Britain say that they would like to give up smoking altogether. We therefore want to create a supportive environment for smokers who want to quit.
- 2.7 The Department of Health and Devolved Administrations across the United Kingdom recognise that effective tobacco control forms a crucial component in policies to improve public health. Tobacco control policies in place across the United Kingdom take a comprehensive approach, aiming to reduce the impact of tobacco use by discouraging uptake of tobacco use by young people, supporting tobacco users who want to quit and reducing people's exposure to secondhand tobacco smoke.
- 2.8 We want to explore whether policy action on tobacco packaging has the potential to bring public health benefits over and above those expected to accrue from existing tobacco control initiatives, including legislation to end the open display of tobacco in shops. While 'plain packaging' is a term commonly used in connection with policies about regulating tobacco packaging, in practice packs would not actually be plain. For example, they would be required to have coloured picture warnings and brand names would still appear in a standardised form. The term 'standardised packaging' is considered to be a more accurate description of the policy concept and, therefore, it is used throughout this consultation document.

3. Policy objectives

- 3.1 The Department of Health and Devolved Administrations have broad policy objectives to improve public health by:
- discouraging young people from taking up smoking;
 - encouraging people to quit smoking;
 - helping people who have quit, or who are trying to quit, to avoid relapse back to smoking; and
 - reducing people's exposure to secondhand smoke from tobacco products.
- 3.2 To inform policy development, we wish to explore whether requiring tobacco products to be sold in standardised packaging could contribute to achieving these public health policy objectives by:
- reducing the appeal of tobacco products to consumers;
 - increasing the effectiveness of health warnings on the packaging of tobacco products;
 - reducing the ability of tobacco packaging to mislead consumers about the harmful effects of smoking; and
 - having a positive effect on smoking-related attitudes, beliefs, intentions and behaviours, particularly among children and young people.
- 3.3 We seek feedback on whether there might be public health benefits from the introduction of standardised tobacco packaging in addition to policies currently in place, including legislation ending the permanent display of tobacco products by retailers.²

4. Standardised tobacco packaging

- 4.1 The United Kingdom is a Party to the World Health Organization's *Framework Convention on Tobacco Control* (FCTC). The FCTC is the world's first public health treaty and places obligations on Parties to meet the treaty objective to 'reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke' and to implement comprehensive tobacco control strategies.³ Since the United Kingdom became a Party to the treaty in 2004, the Government has taken its FCTC obligations very seriously.
- 4.2 To help Parties meet their obligations under the FCTC, guidelines have been developed. While these guidelines are not binding, Parties have agreed that they reflect their consolidated view of a desirable means of fulfilling their FCTC obligations.

² Tobacco display legislation comes into force in England on 6 April 2012 in large shops and 6 April 2015 for all other businesses. Similar legislation is also to be introduced in other parts of the UK.

³ From Article 3 (objective) and Article 5 (general obligations) of the World Health Organization's *Framework Convention on Tobacco Control*, available on the internet at: <http://www.who.int/fctc>

4.3 Guidelines on Article 11 of the FCTC⁴ suggest that:

Parties should consider adopting measures to restrict or prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and font style (plain packaging). This may increase the noticeability and effectiveness of health warnings and messages, prevent the package from detracting attention from them, and address industry package design techniques that may suggest that some products are less harmful than others.

4.4 Guidelines on Article 13 of the FCTC⁵ recommend:

Packaging and product design are important elements of advertising and promotion. Parties should consider adopting plain packaging requirements to eliminate the effects of advertising or promotion on packaging. Packaging, individual cigarettes or other tobacco products should carry no advertising or promotion, including design features that make products attractive.

4.5 The FCTC guidelines explain that:

The effect of advertising or promotion on packaging can be eliminated by requiring plain packaging: black and white or two other contrasting colours, as prescribed by national authorities; nothing other than a brand name, a product name and/or manufacturer's name, contact details and the quantity of product in the packaging, without any logos or other features apart from health warnings, tax stamps and other government-mandated information or markings; prescribed font style and size; and standardized shape, size and materials. There should be no advertising or promotion inside or attached to the package or on individual cigarettes or other tobacco products.⁶

4.6 Reflecting the FCTC guidelines, we have developed the following approach to standardised packaging for the purposes of this consultation:

- All internal and external packaging to be in a prescribed colour/s.
- All text on the pack, including brand names, to be in a standard colour and typeface.
- No branding, advertising or promotion to be permitted on the outside or inside of packs, or attached to the package, or on individual tobacco products themselves. For this purpose 'branding' includes logos, colours or other features associated with a tobacco brand.
- Any foils within a pack to be of a standard format and colour with no text permitted.
- Packs to be of a standard shape and opening, and possibly manufactured with particular materials.

⁴ Article 11 of the FCTC relates to packaging and labelling of tobacco products.

⁵ Article 13 of the FCTC relates to tobacco advertising, promotion and sponsorship.

⁶ FCTC implementation guidelines are available on the internet at: <http://www.who.int/fctc>

- Only the following information or markings to be permitted on packs:
 - a brand name;
 - a product name;
 - the quantity of product in the packaging;
 - the name and contact details of the manufacturer;
 - one barcode to facilitate sale and stock control;
 - health warnings as currently required;⁷
 - tar, nicotine and carbon monoxide yield information as currently required;⁷
 - product identification marking as currently required;⁷
 - fiscal mark requirements as currently required;⁸ and
 - markings not visible to the naked eye to assist with the identification of genuine, duty-paid products, or other features to prevent fraud.
- Any wrapper around the pack to be transparent and colourless, without any other markings visible to the naked eye.

4.7 Consistent with the allowances for advertising in section 4 of the Tobacco Advertising and Promotion Act 2002, we do not believe that standardised packaging requirements would be necessary during the course of business solely within the tobacco trade. This means that brand names, colours and logos would still be allowed to be used openly within the tobacco trade. However, tobacco products that are made available for sale to the public, or that could be visible to the public, would need to meet the requirements set out in paragraph 4.6.

4.8 If standardised packaging was to be required in the future, any further details and specifications would be set out by the Government.

5. Other effects associated with standardised tobacco packaging

5.1 There may be other effects associated with introducing standardised tobacco packaging. Through this consultation, we wish to understand in more detail what these could be, together with any evidence.

5.2 In particular, we seek views on whether introducing standardised packaging would have:

- trade or competition implications;
- legal implications;
- costs or benefits for retailers or manufacturers;

⁷ Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002, as amended by the Tobacco Products (Manufacture, Presentation and Sale) (Safety) (Amendment) Regulations 2007, implementing the Tobacco Products Directive 2001/37/EC.

⁸ Set out in the Tobacco Products Duty Act 1979, the Tobacco Products Regulations 2001 and HMRC Notice 476 dated February 2011.

- implications for the availability of, and demand for, illicit tobacco (both smuggled and counterfeit);
- implications for cross-border shopping;⁹ or
- any other unintended consequences.

6. Evidence

- 6.1 To inform responses to this consultation and any subsequent policy-making, the Department of Health in England commissioned a systematic review of the evidence on plain tobacco packaging. The review was supported through the Public Health Research Consortium (PHRC), a network of researchers funded by the Department of Health's Policy Research Programme. The review was undertaken by academics at the University of Stirling, the University of Nottingham and the Institute of Education, London.
- 6.2 The resulting report has been peer-reviewed in accordance with the Department of Health's Research Governance Framework¹⁰ and is available on the PHRC's website at: http://phrc.lshtm.ac.uk/project_2011-2016_006.html
- 6.3 The PHRC report represents the work and views of the authors, not necessarily those of the Department of Health.

7. Impact assessment

- 7.1 A consultation-stage impact assessment has been prepared and is published alongside this consultation document. The impact assessment presents the following options:
- *Option 1:* Do nothing (i.e. maintain the *status quo* for tobacco packaging).
 - *Option 2:* Require the plain packaging of cigarettes and hand-rolling tobacco, as described in paragraphs 4.6 and 4.7.
 - *Option 3:* A different approach to tobacco packaging to improve public health, if suggested by consultation responses. Options 1 and 2 are considered in the impact assessment. The potential of Option 3 will be explored following consultation, if responses to the consultation suggest an alternative approach to reduce the promotional impact of tobacco packaging.
- 7.2 Although we have an open mind at this stage about introducing standardised packaging, the impact assessment has been prepared to inform responses to the consultation. We welcome your views on the impact assessment as part of this consultation.

⁹ People travelling from abroad may bring tobacco bought in another country back into the United Kingdom for their own consumption, subject to UK customs regulations. This is known as 'cross-border shopping'.

¹⁰ The Department of Health's *Research Governance Framework for Health and Social Care* is available on the internet at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4108962

7.3 An initial assessment of the impact on equality has been prepared and is published alongside this consultation document. We seek your opinions on whether a policy of standardised packaging of tobacco could help us to fulfil our Public Sector duties under the Equality Act 2010.¹¹

8. How to get involved in the consultation

8.1 The consultation questions are at Appendix A. The consultation will run for 12 weeks, from **16 April 2012 to 10 July 2012**. We welcome responses from any interested person, business or organisation.

8.2 Respondents are encouraged to provide their views online but responses can be made in any of the following ways, by:

- *Visiting the Department of Health website and completing the online form at:*
<http://consultations.dh.gov.uk>
- *Filling in the response form by downloading it at:*
<http://consultations.dh.gov.uk>
- *Emailing your response to:*
tobaccopacks@dh.gsi.gov.uk
- *Posting your response to:*
**Tobacco Packs Consultation
Department of Health
7th Floor
Wellington House
133–155 Waterloo Road
London
SE1 8UG**

8.3 We ask that you provide references to research or other evidence with your responses.

8.4 If you wish to get a copy of this consultation document in an alternative format, or need to respond in an alternative format for accessibility reasons, please contact us using the email or postal addresses given in paragraph 8.2.

¹¹ Bodies subject to the Equality Duty must, when delivering their services and performing their functions, have due regard to the need to:

- **Eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
- **Advance equality of opportunity** between people who share a particular protected characteristic and people who do not share it; and
- **Foster good relations** between people who share a particular protected characteristic and people who do not share it.

The public sector equality duty covers the 'protected characteristics' of age, disability, gender reassignment, pregnancy and maternity, race (includes ethnic or national origins, colour or nationality), religion or belief (includes lack of belief), sex and sexual orientation. It also applies to marriage and civil partnership status, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

8.5 The Department of Health and Devolved Administrations will not be able to respond specifically to individual consultation responses.

9. Declaration of direct or indirect links to the tobacco industry by respondents

9.1 As a Party to the FCTC, the United Kingdom has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. We will still carefully consider all consultation responses from the tobacco industry and from those with links to the tobacco industry and include them in the published summary of consultation responses.

10. Territorial scope

10.1 This consultation is being run by the Department of Health with the agreement of the Devolved Administrations across the United Kingdom. All consultation responses will be made available by the Department of Health for consideration by the Ministers responsible for public health in all three Devolved Administrations.

11. Next steps

11.1 All responses received by the closing date of **10 July 2012** will be carefully considered. A summary report of consultation responses will be published on the Department of Health website in due course after the completion of the consultation.

11.2 Any decisions to take further policy action on tobacco packaging will be taken only after full consideration is given to the consultation responses, evidence and other relevant information. If it is decided to pursue a policy that would require legislation, further consideration will be given to the most appropriate approach.

12. Consultation process

12.1 This consultation follows the Government's *Code of Practice on Consultation*. In particular, to:

- formally consult at a stage where there is scope to influence the policy outcome;
- consult for at least 12 weeks, with consideration given to longer timescales where feasible and sensible;
- be clear about the consultation's process in the consultation documents, what is being proposed, the scope to influence and the expected costs and benefits of the proposals;
- ensure the consultation exercise is designed to be accessible to, and clearly targeted at, those people it is intended to reach;

- keep the burden of consultation to a minimum to ensure consultations are effective and to obtain consultees' 'buy-in' to the process;
- analyse responses carefully and give clear feedback to participants following the consultation; and
- ensure officials running consultations are guided in how to run an effective consultation exercise and share what they learn from the experience.

12.2 The full text of the *Code of Practice on Consultation* is on the Better Regulation website at: <http://www.bis.gov.uk/policies/bre/consultation-guidance>

13. Comments on the consultation process itself

13.1 If you have concerns or comments that you would like to make relating specifically to the consultation process itself, please contact:

Consultations Coordinator

Department of Health

3E48, Quarry House

Leeds

LS2 7UE

Email: consultations.co-ordinator@dh.gsi.gov.uk

Please do not send consultation responses to this address.

14. Confidentiality of information

14.1 We will manage the information you provide in response to this consultation in accordance with the Department of Health Information Charter. This is available on our website at:

http://www.dh.gov.uk/en/FreedomOfInformation/DH_088010

14.2 Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

14.3 If you want the information that you provide to be treated as confidential, please be aware that under the FOIA there is a statutory Code of Practice with which public authorities must comply, dealing with obligations of confidentiality. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department of Health.

14.4 The Department will process your personal data in accordance with the Data Protection Act and, in most circumstances, this will mean that it will not be disclosed to third parties.

15. Summary of the consultation

15.1 A summary of the response to this consultation will be made available before or alongside any further action and will be placed on the consultations website at:

<http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/index.htm>

APPENDIX A

Consultation questions

1. Which option do you favour?
 - Do nothing about tobacco packaging (i.e., maintain the *status quo* for tobacco packaging);
 - Require standardised packaging of tobacco products; or
 - A different option for tobacco packaging to improve public health.
2. If standardised tobacco packaging were to be introduced, would you agree with the approach set out in paragraphs 4.6 and 4.7 of the consultation?
3. Do you believe that standardised tobacco packaging would contribute to improving public health over and above existing tobacco control measures, by one or more of the following:
 - Discouraging young people from taking up smoking;
 - Encouraging people to give up smoking;
 - Discouraging people who have quit or are trying to quit smoking from relapsing; and/or
 - Reducing people's exposure to smoke from tobacco products?
4. Do you believe that standardised packaging of tobacco products has the potential to:
 - Reduce the appeal of tobacco products to consumers?
 - Increase the effectiveness of health warnings on the packaging of tobacco products?
 - Reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking?
 - Affect the tobacco-related attitudes, beliefs, intentions and behaviours of children and young people?
5. Do you believe that requiring standardised tobacco packaging would have trade or competition implications?
6. Do you believe that requiring standardised tobacco packaging would have legal implications?
7. Do you believe that requiring standardised tobacco packaging would have costs or benefits for manufacturers, including tobacco and packaging manufacturers?

8. Do you believe that requiring standardised tobacco packaging would have costs or benefits for retailers?
9. Do you believe that requiring standardised tobacco packaging would increase the supply of, or demand for, illicit tobacco or non-duty-paid tobacco in the United Kingdom?
10. People travelling from abroad may bring tobacco bought in another country back into the United Kingdom for their own consumption, subject to United Kingdom customs regulations. This is known as 'cross-border shopping'. Do you believe that requiring standardised tobacco packaging would have an impact on cross-border shopping?
11. Do you believe that requiring standardised tobacco packaging would have any other unintended consequences?
12. Do you believe that requiring standardised tobacco packaging should apply to cigarettes only, or to cigarettes and hand-rolling tobacco?
13. Do you believe that requiring standardised packaging would contribute to reducing health inequalities and/or help us fulfil our duties under the Equality Act 2010?
14. Please provide any comments you have on the consultation-stage impact assessment. Also, please see the specific impact assessment questions at Appendix B of this consultation document and provide further information and evidence to answer these questions if you can.
15. Please include any further comments on tobacco packaging that you wish to bring to our attention. We also welcome any further evidence about tobacco packaging that you believe to be helpful.

APPENDIX B

Consultation-stage impact assessment questions

To better understand the likely costs and benefits if standardised packaging were introduced, and to develop the consultation-stage impact assessment, we are seeking further evidence on the following questions:

1. What would be the costs to tobacco and packaging manufacturers of redesigning packs and retooling printing processes if standardised packaging were introduced?
2. Would the cost of manufacturing cigarette packs be lower if standardised packaging were introduced, compared with the current cost of manufacturing packs?
3. How often do cigarette manufacturers amend the design of tobacco packaging for brands on the United Kingdom market, and what are the costs of doing so?
4. How many different types of shape of cigarette pack are currently on the United Kingdom market?
5. Would retailing service times be affected, and if so, why and by how much, if standardised packaging were introduced?
6. How could standardised packs be designed to minimise costs for retailers?
7. Would retailers bear any other costs if standardised tobacco packaging were introduced?
8. What is the average price of a packet of cigarettes in the following cigarette market segments?
 - Premium brands
 - Mid-price brands
 - Economy brands
 - Ultra-low-price brands

9. What percentage of total cigarette sales in the United Kingdom are in each of the following cigarette market segments?
 - Premium brands
 - Mid-price brands
 - Economy brands
 - Ultra-low- price brands
10. How does the total price of a packet of cigarettes break down into manufacturing costs, distribution costs, tax, other costs, profits for retailers and profits for the tobacco manufacturer in the following cigarette market segments?
 - Premium brands
 - Mid-price brands
 - Economy brands
 - Ultra-low-price brands
11. Would consumers trade down from higher-priced to lower-priced tobacco products if standardised tobacco packaging were introduced?
12. Of the total cigarette market in the United Kingdom, what proportion is sold in cartons rather than in individual packs?



© Crown copyright

2900020 Apr 2012

Produced by Williams Lea for the Department of Health

www.dh.gov.uk/publications