



# Template response to government consultation on standardised packaging of tobacco products

## Introduction

This template has been produced by ASH to support members of the Smokefree Action Coalition (SFAC) in preparing their responses to the Department of Health consultation on plain, standardised packaging of tobacco products. The SFAC supports plain, standardised packaging as part of a comprehensive strategy to make smoking history for our children. Every year 340,000 children in the UK are tempted to try smoking; two thirds of smokers start before they are 18 and the vast majority while they are teenagers.

Wherever possible, responses should be submitted electronically via the Department of Health website in order to facilitate analysis. **The deadline for submission is 10th July 2012.**

The electronic response form and supporting documents are available at:

[http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products/consult\\_view](http://consultations.dh.gov.uk/tobacco/standardised-packaging-of-tobacco-products/consult_view) .

Any questions about this template response should be directed in the first instance to Debbie Millward at ASH [debbie.millward@ash.org.uk](mailto:debbie.millward@ash.org.uk).

## The consultation

On 16th April the Department of Health and the Devolved Administrations launched a national consultation on policy proposals to require cigarettes packs and other tobacco packaging to conform to a standardised format. This format will dispense with all brand identifiers other than the name of the brand and the specific brand variant of the product. This is sometimes known as 'plain packaging' but the Department of Health uses the term 'standardised packaging' because packs will still display health warnings.

The purpose of the consultation is to explore whether this policy will help to achieve reductions in smoking prevalence and tobacco-related harm 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.

There is already good evidence that this policy will deliver these objectives. An independent systematic review of the evidence, conducted by the Public Health Research Consortium and published alongside the consultation, describes this evidence in some detail. However the government is obliged to consult on the proposals and is bound to face opposition from the tobacco industry and its supporters. It is therefore vital

that all organisations, groups and individuals with an interest in reducing the harms of tobacco respond to the consultation and support the proposals.

## How to use this response template

This response template presents answers to all the questions asked in the consultation. If you have limited time, you can simply copy these answers directly into your response. **Where possible, however, make reference to your own or your organisation's activity, experience and interests. Include examples and case studies if you can. This will help to bring the subject to life and make clear the human cost of any form of tobacco promotion.**

The consultation asks that all evidence cited by respondents is referenced. However there is no need to repeat the evidence presented in the Public Health Research Consortium report. Instead, make clear your support for this review and its conclusions. This template response cites some evidence that was not included in the systematic review which should be cited in full if you use it in your response.

**The key message to get across in your response is that standardisation of tobacco packaging is an appropriate and *proportional* response to a major population harm.** Many government consultations concern policies for which impacts are difficult to assess. This is not the case with standardised tobacco packaging. At the heart of this consultation is the cast iron evidence of the harms of tobacco. This evidence is so strong – and the impact of tobacco so great – that any interventions that will reduce this harm should, where possible, be embraced.

## The consultation questions with template responses

### Questions a. to g.

Questions a. to g. ask for your details. If you are responding on behalf of an organisation, put the organisation's name in a. If you are responding as an individual, enter your own name, followed by personal email address and contact details.

### 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.

### RESPONSE

Require standardised packaging of tobacco products

### 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?

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

## RESPONSE

Yes

The proposals set out in paragraphs 4.6 and 4.7 of the consultation document will dramatically reduce the opportunities available to tobacco companies to promote and target their products. There is, however, scope for going beyond the approach set out in the consultation document.

1. Firstly, extensive research has been conducted for the government in Australia to identify a standardised design for tobacco packaging that minimises the appeal and attractiveness of the product while also maximising its perceived harm and the noticeability of the graphic health warnings. See:

Parr V, Tan B, Ell P, Miller K (2011) [Market research to determine effective plain packaging of tobacco products](#). GfK Blue Moon, Sydney.

In line with the Australian approach, the specification of standardised packaging in the UK should also include:

- The inclusion of larger health warnings at the top of the pack, occupying 75% of the front and 90% of the back of the pack.
- The inclusion of graphic warnings on the front as well as on the back of the pack.
- The removal of quantitative information on tar, nicotine and carbon monoxide (as this is misleading) and replacement with qualitative information and advice about the risks of smoking.
- The inclusion of a Quitline number and web address on all packs.

Full details of the Australian standard are available at <http://www.comlaw.gov.au/Details/F2011L02766>

2. The names of brand variants should also be controlled. Brand descriptors with positive connotations such as 'smooth', 'slim' and 'gold' should not be permitted. The length of the variant name should also be restricted in order to prevent the variant name from being used as a new means of promotion.

There is good evidence that brand descriptors, as well as colours, continue to mislead smokers about the risks of smoking. See:

Mutti S et al (2011) [Beyond light and mild: cigarette brand descriptors and perceptions of risk in the International Tobacco Control \(ITC\) Four Country Survey](#). *Addiction* doi: 10.1111/j.1360-0443.2011.03402.x.

3. Standardisation needs to encompass cigarette sticks as well as the packs they come in. Research published after the completion of the Public Health Research Consortium review shows that characteristics of the cigarette stick affect smokers' perceptions. Consequently changes in the design of the cigarette can differentiate products in a manner that can be used for promotional purposes. Examples include 'slim' and 'superslim' cigarettes and cigarettes with attractive and colourful filters. See:

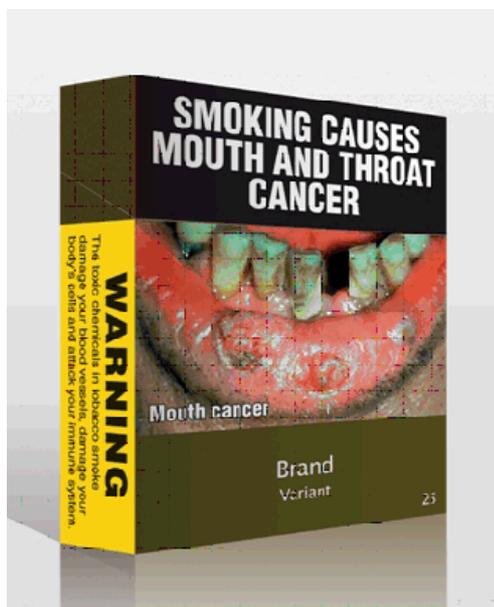
Borland R, Savvas S (2012) [Effects of stick design features on perceptions of characteristics of cigarettes](#). *Tobacco Control* doi:10.1136/tobaccocontrol-2011-050199

4. Paragraph 4.7 of the consultation document states that 'we do not believe that standardised packaging requirements would be necessary during the course of business solely within the tobacco trade'. This is not logical as, if standardised packaging is the requirement for the market, it is not necessary or helpful to allow current branding to remain for business to business communications.

In the UK some of these changes may need action at EU level. The EU Tobacco Products Directive is currently being reviewed so now is the time for the UK government to press for revisions to the directive which would, for example, allow the UK to mandate larger health warnings, to put picture warnings on the front of packs and to remove quantitative tar, nicotine and carbon monoxide yields on packs and replace them with

qualitative information and advice. Plain, standardised packaging could be introduced initially in line with current EU directive(s) and could then be improved over time as the Tobacco Products Directive is revised.

*The approved design for standardised packs in Australia. This design is supported by the Smokefree Action Coalition for the UK.*



**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?

- Yes  
 No  
 Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

**RESPONSE**

Yes

Standardised tobacco packaging will contribute to all four of these outcomes. The branding and design of tobacco packaging is used to make the product more attractive and to target specific audiences, including young people. Branding also distracts attention from the health message on the pack and misleads smokers about the harmfulness of different products. On all these issues the evidence in the Public Health Research Consortium systematic review is conclusive. The report is well-researched and the methodology employed is of a high standard.

The size of the impact of standardised tobacco packaging on the outcomes identified is unknown as no administration has yet introduced this policy (Australia will be the first to do so in December 2012). However, the harm to public health of tobacco is so great that every possible means of reducing this harm

should be considered. Although Britain has an excellent record in tobacco control, smoking still accounts for the majority of preventable deaths nationally. Standardisation of tobacco packaging is an obvious next step within a comprehensive tobacco control strategy as it removes a major communication channel used by the tobacco industry to promote and target its products now that advertising, promotion and sponsorship are banned.

There is growing evidence that standardised tobacco packaging is likely to have most impact on discouraging young people from taking up smoking. One of the key findings of the Public Health Research Consortium report was that non-smokers and younger people responded more negatively to plain, standardised packs than smokers and older people (pages 75-76). Most smokers start young: two thirds of current smokers started smoking before they were 18 years old and 83% started before they were 20 (General Lifestyle Survey 2010). As young people are particularly brand-conscious, removing all brand identifiers from tobacco packaging has great potential to reduce smoking uptake.

Dunstan, S. [The 2010 General Lifestyle Survey](#). Office for National Statistics, March 2012.

#### **4. Do you believe that standardised packaging of tobacco products has the potential to:**

##### **a. Reduce the appeal of tobacco products to consumers?**

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

##### **RESPONSE**

Yes

Packaging is the major remaining means by which tobacco companies can make their products more appealing to consumers. Consequently every effort is made by the industry to exploit this opportunity in order both to retain smokers and to attract new smokers.

The Public Health Research Consortium report demonstrates unequivocally that standardised tobacco packaging is less attractive to consumers than branded packaging (page 37). Tobacco products in standardised packs are perceived as being less fashionable, and of poorer taste, than branded products, especially by younger people and non-smokers.

##### **b. Increase the effectiveness of health warnings on the packaging of tobacco products?**

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

##### **RESPONSE**

Yes

Currently, brand logos and colours distinguish tobacco products and draw attention away from the health warnings. The removal of these brand identifiers will give greater prominence to these warnings.

The Public Health Research Consortium report concludes that the standardisation of tobacco packaging 'tends to increase the recall of health warnings, the attention paid to them and their perceived seriousness and believability' (page 51).

**c. Reduce the ability of tobacco packaging to mislead consumers about the harmful effects of smoking?**

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

**RESPONSE**

Yes

Subtle differences in the colour and branding of tobacco products are perceived by smokers as communicating differences in their harm. This is misleading as it falsely reassures smokers that they can choose lower risk products.

The Public Health Research Consortium report demonstrates that when lighter colours are used for tobacco product packaging, the products are perceived (wrongly) as being less harmful than when darker colours are used (page 57). The removal of all colour differentiation between different brands will eliminate this source of confusion.

We recommend that the proposals go further and include the removal of the quantitative information about tar, nicotine and carbon monoxide from tobacco packaging as there is good evidence that this is misleading. See:

Enviro-nics Research Group (2003) [Toxics information on cigarette packaging: Results of a survey of smokers](#). Health Canada

Gallopel-Morvan K et al (2010) [Consumer understanding of cigarette emission labelling](#). *European Journal of Public Health* doi: 10.1093/eurpub/ckq087

This information should be replaced by qualitative information and advice about the risks of smoking, following the Australian model.

We also recommend that brand descriptors and variant names such as 'smooth' and 'slim' are also prohibited as these are promotional tools which mislead smokers about the relative harm of different tobacco products. See Mutti (2011), cited in response to Question 2, and:

Bansal-Travers M et al (2011) [The impact of cigarette pack design, descriptors and warning labels on risk perceptions](#). *American Journal of Preventive Medicine*; 40(6): 674-8.

**d. Affect the tobacco-related attitudes, beliefs, intentions and behaviours of children and young people?**

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

## RESPONSE

Yes

The Public Health Research Consortium report notes that, across the evidence, 'younger respondents were more likely than older respondents to perceive that plain packs would discourage the onset of smoking, encourage cessation or reduce consumption' (page 78).

### 5. Do you believe that requiring standardised tobacco packaging would have trade or competition implications?

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

## RESPONSE

No

Trade laws allow for measures to protect the public health. The evidence base supports the implementation of standardised packaging as proportionate and necessary to improve public health.

Standardised packaging would apply equally to all tobacco products sold in the UK wherever they are produced. Removing the promotional aspects of packaging will not limit consumer choice as the brand names will still be on the packs. Retailers and consumers will still be able to recognise and choose between different brands and there is no evidence to show that the introduction of standardised tobacco packaging would slow down or impede the sales process. The one peer-reviewed study available on this matter found that the retail sale of standardised tobacco products was quicker than the retail sale of branded tobacco products (Carter et al 2011). See:

Carter OBJ, Mills BW, Phan T, Bremner JR (2011) [Measuring the effect of cigarette plain packaging on transaction times and selection errors in a simulation experiment](#). *Tobacco Control* doi 10.1136/tobaccocontrol-2011-050087

### 6. Do you believe that requiring standardised tobacco packaging would have legal implications?

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

## RESPONSE

No

The tobacco industry has challenged the implementation of plain packaging in Australia in a variety of legal fora and may take similar action against any other jurisdiction deciding to go ahead with plain packaging.

The tobacco industry has a track record of losing or withdrawing its legal challenges on other issues of tobacco regulation, such as tobacco advertising bans, vending machines and display legislation. As

with previous regulatory measures introduced by the UK government it is unnecessary for the UK to wait for all legal challenges to be resolved. If every time the tobacco industry threatened or took legal action governments waited until all such challenges were resolved no tobacco regulatory measures would ever be implemented.

Australia is going ahead with plain, standardised packaging in December 2012 before all the legal challenges it faces are likely to be resolved. The evidence is sufficient to support implementation of standardised packaging and the UK should follow the lead of Australia and proceed with legislation as soon as feasible after the consultation is concluded. Delays cost lives.

**7. Do you believe that requiring standardised tobacco packaging would have costs or benefits for manufacturers, including tobacco and packaging manufacturers?**

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

**RESPONSE**

Yes

Standardised packaging will reduce manufacturers' costs as the need to refresh and revise brands and branded packaging will be removed.

Manufacturers will lose the opportunity to present their products attractively and to target their products to different audiences including young people. This is, however, the whole point of the policy.

**8. Do you believe that requiring standardised tobacco packaging would have costs or benefits for retailers?**

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

**RESPONSE**

Yes

The introduction of standardised tobacco packaging should not inhibit the everyday sales practice of retailers. The one peer-reviewed study available on this matter found that the retail sale of standardised tobacco products was quicker than the retail sale of branded tobacco products. (Carter et al 2011, cited under response to Question 5)

Retailers are likely to see a decline in sales due to the loss of attractiveness of the product, but this will happen gradually allowing retailers to adjust over time.

**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?**

- Yes

- No
- Do not know or have no view

Please provide an explanation for the answer you provided and evidence if available.

## RESPONSE

No

Since 2000, successive UK governments have pursued a highly effective anti-smuggling strategy, including tough measures to force tobacco manufacturers to control their supply chains. This has reduced the size of the illicit trade from 21% in 2000 to 10% by 2009/10 for cigarettes (see table 3 of the impact assessment). This significant drop in the size of the illicit trade has been driven by tough government action to control the supply side.

On the supply side, the tobacco industry argues that standardised tobacco packaging will be easier to counterfeit than branded packaging and therefore will increase the size of the smuggled market. This is nonsense as it ignores the sophistication of current counterfeiting practice. The branded tobacco products available in Britain today have proved to be extremely easy to counterfeit. It is therefore highly unlikely that any change to the design of tobacco packaging will create new opportunities for illicit trade. This trade is responsive to active anti-smuggling measures, not to changes in product design.

In 2008, HMRC and the UK Border Agency launched its updated anti-smuggling strategy, *Tackling Tobacco Smuggling Together*. This included an agreement by the major tobacco producers to include covert markings on their products in order that counterfeit products can be more easily identified by customs and trading standards officers. This was necessary precisely because tobacco products, in all their branded diversity, have proved to be an easy target for counterfeiters.

On the demand side, the tobacco industry argues that the standardisation of tobacco packaging will encourage smokers either to travel abroad to buy more attractive branded packs or to buy imported illicit tobacco products (both counterfeit and authentic brands) which retain current branding. However, despite the fact that the introduction of graphic warnings in the UK in 2008/9 made tobacco products significantly less attractive to smokers, the illicit trade continued to decline in line with the pre-existing trend (see table 3 in the impact assessment). There was no evidence of any change in smokers' purchasing behaviour.

The effects of branding on smokers' choices are significant but they are not so great as to drive smokers to actively seek new sources for products which they can obtain without difficulty at their local shop.

**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?**

- Yes
- No
- Do not know or have no view

Please provide an explanation for the answer you provided and evidence if available.

## RESPONSE

No

See response to question 9: smokers are unlikely to increase their foreign travel simply because the logos and colours on their tobacco products have disappeared.

There have been significant declines in cross border shopping in recent years for both cigarettes and handrolled tobacco (see table 3 of the impact assessment). This trend is likely to continue given recent changes in the amount consumers are allowed to bring into the UK for personal consumption. In October 2011 the guide level for importing tobacco from the EU for personal use was reduced from 3,200 to 800 cigarettes and from 3 kg to 1 kg for handrolling tobacco. This change aims to deter travellers who seek to purchase large quantities of non-UK duty paid tobacco for illicit resale in the UK.

**11. Do you believe that requiring standardised tobacco packaging would have any other unintended consequences?**

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

**RESPONSE**

No

It is possible that the removal of brand distinctions will push the tobacco companies towards greater price competition leading to lower prices. However, any reductions in the price of tobacco can be compensated for with increases in duty, which would increase government revenues.

**12. Do you believe that requiring standardised tobacco packaging should apply to cigarettes only, or to cigarettes and hand-rolling tobacco?**

- Cigarettes only
- Cigarettes and hand-rolling tobacco
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

**RESPONSE**

Cigarettes and hand-rolling tobacco

Standardised packaging should apply to *all* tobacco products including cigarettes, hand-rolling tobacco, cigars, pipe tobacco and shisha. All tobacco products should be treated in the same way.

In Australia, this approach has been mandated and shown to be practicable. For example, when single cigars are sold, they are handed to the customer in a standardised bag with the appropriate health warnings.

**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?**

- Yes
- No
- Do not know or have no view

*Please provide an explanation for the answer you provided and evidence if available.*

## RESPONSE

Differences in smoking prevalence across the classes account for fully half of the difference in life expectation between the richest and poorest in society at the current time. Such differences did not exist in the 1970s and have developed in the years since. See:

Jarvis, M. J and Wardle, J. (2005) Social patterning of health behaviours: the case of cigarette smoking. In: Marmot, M. and Wilkinson, R. (eds) *Social Determinants of Health*. Oxford: Oxford University Press, 2nd edition.

Poor non-smokers have longer life expectancy than affluent smokers. See:

Gruer L, Hart CL, Gordon DS, Watt GCM (2009) [Effect of tobacco smoking on survival of men and women by social position: a 28 year cohort study](#). *BMJ* 2009; 338 doi: 10.1136/bmj.b480

Plain, standardised packaging is a population level measure to which all smokers will be equally exposed and therefore, at the very least, will not increase health inequalities.

**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.**

## RESPONSE

Re: costs to manufacturers (questions 1-3)

Long-term costs to manufacturers should decrease as there will be no need to regularly redesign packs to promote specific brands. See:

Tiessen J et al (2010) [Assessing the Impacts of Revising the Tobacco Products Directive](#). Rand Europe (page 151)

Re: retailing times (question 5)

The available independent evidence suggests that retailing times will reduce following the introduction of standardised tobacco packaging (Carter et al 2011, cited under response to Question 5)

Re: trading down to lower-priced products (question 11)

Consumers are already trading down, so it may be hard to identify the specific effect of standardisation of tobacco packaging on this trend. If the trend continues, it would be inappropriate to allocate the decline entirely to plain packaging. However, if any additional effect is seen, this will be more evidence of the importance of packaging in determining consumer choices.

Re: consumer surplus (question 11)

The Impact Assessment states that “in any discussion of consumer surplus it is implicitly assumed that consumers have stable preferences over time and can therefore be regarded as rationally addicted” citing Becker’s theory of rational addiction from 1988. However, two thirds of smokers take up the habit while still under 18 and a similar high proportion of smokers want to quit and regret having started smoking. See:

Dunstan, S. [The 2010 General Lifestyle Survey](#). Office for National Statistics, March 2012.

Decisions over consumption of addictive products are not made rationally, and applying the standard rational choice models is not appropriate. See:

Gruber, Jonathan and Mullainathan, Sendhil (2005). [“Do Cigarette Taxes Make Smokers Happier?”](#) Advances in Economic Analysis and Policy Vol. 5: No. 1, Article 4 (2005). Available at Johnson, P. [Cost Benefit Analysis of the FCTC Protocol on Illicit Trade in Tobacco Products](#). A report prepared for ASH. London. 2009.

**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.**

If the UK wants to retain its position as a world leader in the implementation of the WHO Framework Convention on Tobacco Control, protecting the health of current citizens and future generations, we need to proceed with plain packaging sooner rather than later. The UK is the standard bearer for tobacco control in Europe and where we lead others will follow.

There is strong public support for the introduction of plain, standardised packaging as specified in Australia, i.e. with larger health warnings and picture warnings on the front of packs. A recent poll by YouGov for ASH found that 62% of adults in England supported plain packaging while just 11% opposed the measure. Even among smokers for every five who oppose plain packaging, there are six who support it. (10,000 adults sampled online between 27th February and 16th March 2012; results weighted for, and representative of, 18+ population in England)

**Plain, standardised packaging is needed in addition to, not instead of, display bans**

A report by the Cabinet Office Behavioural Insight Team, *Applying Behavioural Insight to Health*, noted that ‘If we know anything from behavioural science, it is that behaviour is strongly influenced by what we think others are up to.’ The removal of tobacco displays exploits this effect. In Ireland, the prohibition of tobacco displays has been followed by a decline in the number of young people who believe that smoking is widespread among their peers. Before the removal of displays, 62% of young people thought that more than one in five children their own age smoked. This fell to 46% after the displays were removed. See:

McNeill A et al (2010) [Evaluation of the removal of point of sale tobacco promotional displays in Ireland](#). *Tobacco Control* doi:10.1136/tc.2010.038141

If the legislation allowing tobacco displays were repealed, the displays would reinforce the message that smoking is commonplace, even if the packs were plain and standardised.

In Australia, the only country so far to legislate for plain packaging of tobacco products, the measure is being introduced in addition to, not instead of, the removal of point-of-sale displays. It is seen as a natural progression from, not an alternative to, the removal of displays. See:

Australian Government (2010) [Taking Preventative Action, A Response to Australia: The Healthiest Country by 2020, The Report of the National Preventative Health Taskforce](#).

The removal of displays is also a recommendation of the guidelines to Article 13 of the WHO Framework Convention on Tobacco Control, to which the UK is a Party. Parties are also urged to consider adopting plain packaging. For details of the guidelines, see: [http://www.who.int/fctc/guidelines/article\\_13.pdf](http://www.who.int/fctc/guidelines/article_13.pdf).

**Retail registration**

Given the legitimate concerns of small retailers about the illicit trade in tobacco, we recommend that the UK government should introduce low cost licensing of retailers. This measure is already in place in Scotland where, since October 2011, it has been an offence to sell tobacco without being registered to do so. All

legitimate tobacco retailers are required to be registered with the Scottish Government, and any unregistered seller now faces a maximum penalty of £20,000 and/or up to six months in prison.

This measure, which helps to inhibit illicit tobacco sales at a local level, is of low cost to retailers and will largely be enforced by council trading standards officers. Similar legislation for England would protect the rights of legitimate tobacco retailers, many of which are small businesses, and make it much easier to force sellers of illicit tobacco out of business. The implementation of such legislation by local councils should be funded by the government in the same way as the implementation of smokefree legislation.

### **Tobacco industry monitoring**

In the US and Canada the tobacco industry is required to report promotional expenditure. Australia is planning to do the same. If such reporting had been in place in the UK, the Department of Health would have been better placed to develop its impact assessments for display legislation and the current consultation on plain, standardised packaging.

The UK should require mandatory reporting of tobacco sales data and all promotional expenditure including payments to public relations companies and any other third parties, such as trade bodies, in line with WHO FCTC Article 5.3 guidelines. This would ensure that government can monitor innovation in marketing activity by the tobacco industry, as well as any lobbying activity, more effectively.

See:

US Bureau of Consumer Protection: [Cigarette sales and marketing expenditure reports](#)

Health Canada: [Tobacco Industry Reporting: Tobacco Reporting Regulations](#)