



Consumers  
Health Forum  
of Australia

25 July 2011

Committee Secretary  
Standing Committee on Health and Ageing  
House of Representatives  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

<b>Submission No. 60</b> (Plain Packaging Bill) A.O.C.   Date: 26/07/2011
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Dear Sir/Madam

**Submission to the House of Representatives Standing Committee on Health and Ageing  
Inquiry into Tobacco Plain Packaging**

The Consumers Health Forum of Australia (CHF) welcomes the opportunity to provide comments to the House of Representative Standing Committee on Health and Ageing Inquiry into Tobacco Plain Packaging.

CHF is the national peak body representing the interests of Australian healthcare consumers. CHF works to achieve safe, quality, timely healthcare for all Australians, supported by accessible health information and systems.

CHF applauds the leadership shown by the Australian Government to reduce the uptake of smoking and encourage current smokers to quit. This legislation is an important step towards improved population health, with a consequent reduction in long-term health system strain. The bipartisan support given to this legislation highlights the importance of reducing smoking rates and how effectively this legislation can assist that effort.

CHF previously provided comments to the Department of Health and Ageing on the *Tobacco Plain Packaging Bill 2011 Exposure Draft* Consultation Paper, and this submission re-examines those comments in light of the recirculated legislation and accompanying Explanatory Memorandum.

CHF strongly supports the legislation and recognises the difficulties of formulating and implementing such legislation, and acknowledges the Government's willingness to tackle such obstacles in order to improve Australian health. While CHF considers the legislation to be well thought out and comprehensive, definitions of what products will be affected under the legislation may benefit from review, to ensure that limits placed on current cigarette packaging do not result in an increase in the use of tobacco accessories as alternatives to plain packaged cigarettes.

As articulated in the Explanatory Memorandum, a primary objective underpinning the plain packaging legislation is the reduction of the appeal of smoking as a habit or fashion accessory. The capacity of tobacco companies to creatively brand and package their products can lead consumers to treat the products as a representation of personal style, attaching value to the way the products are presented. Removing the ability for tobacco companies to add this stylistic value could undermine the overall perceived value of the products by consumers, thus reducing smoking rates.

This use of tobacco products as an accessory could manifest itself in other ways, such as in the production of alternative packaging, including cigarette cases and tobacco pouches sold separately to the product itself. The current legislation provides definitions on various terms attached to packaging practices – *cigarette carton*, *cigarette pack*, *container* and *tobacco product*. None of these definitions clearly include tobacco accessories, such as cigarette cases, as a form of cigarette packaging that would be regulated by the *Tobacco Plain Packaging Bill* (2011). While CHF considers the legislation to be comprehensive, these definitions could benefit from review to ensure all tobacco products are included.

CHF acknowledges the existing trademark laws that moderate the strategies Government can employ in this area. While CHF is not able to comment on the legality of preventing the use of trademarks, CHF considers that the Government’s current legal arguments legitimatising plain packaging could be extended to curtail the proliferation of branded tobacco accessories on similar legal grounds.

As articulated in the Explanatory Memorandum to the legislation, the Government seeks to pass the Bill through the external affairs power in s51(xxix) of the Australian Constitution, thus allowing the Government to give effect to the World Health Organization’s Framework Convention on Tobacco Control. CHF considers that this legal grounding could be extended to include tobacco accessories which might also use trademarks as a form of branding and glamorising tobacco.

While we recognise that this falls outside the Terms of Reference for this Inquiry, CHF would like to take this opportunity to urge the Government to capitalise on the momentum generated by this important legislation and continue to innovate and support quit programs in partnership with consumers. CHF welcomes the steps the Government has already taken to encourage and support quit-smoking programs, such as the recent extension of listings on the Pharmaceutical Benefits Scheme for nicotine replacement therapies and the provision of funding for Quitlines. Consulting with consumers about how programs can best meet their needs could help to ensure that such programs work more effectively to improve quitting success rates.

CHF congratulates the Government on the legislation and appreciates the opportunity to provide comments to the Inquiry and would be interested in participating in future consultations on this issue. Please do not hesitate to contact me should you wish to discuss any aspect of this submission in more detail.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Carol Bennett', written in black ink.

**Carol Bennett**  
**CHIEF EXECUTIVE OFFICER**