

June 9, 2015

VIA E-MAIL

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In Re: **Letter of Public Hearing #15/693- with Regard to the “Plain Packaging” Proposal by the Ministry of Health and Care Services, Norway**

**Attention:** Ministry of Health and Care Services, Norway

The undersigned organizations—representing a broad cross-section of businesses of all sizes and sectors in the United States—are deeply concerned that the Government of Norway is considering a measure that would eliminate branding on and require standardized packaging for tobacco products. Requiring “plain packaging” for products that are legally on the market would unjustly deprive a company of the return on investment it has made in developing and promoting the unique qualities of its product(s). Additionally, this requirement would effectively diminish corporate accountability for those same products, which would be a counterproductive and unnecessary step. We and our members are concerned that Norway’s adoption of such a policy would legitimize its use by other governments not only on tobacco products, but also on various other products. Indeed, our concerns are shared by more than 150 associations in over 50 countries for this very reason, as demonstrated by the attached joint statement.

Our organizations support the sovereign right of governments to adopt legitimate public interest measures, including for health. However, we also re-affirm the principle of protection of intellectual property (IP) rights, including trademarks and branding, and do not believe there is any conflict between such protection, the public interest, and fundamental tenets of law.

As a matter of best regulatory policy and practice, it is important to ensure that measures are both demonstrably effective and do not result in unintended consequences. Assertions on both sides notwithstanding, we have not yet seen compelling evidence that trademark elimination will actually advance the public interest. However, the negative precedent that would be set for the legal rights of brand owners everywhere is unequivocal and would undermine the global IP protection system that Norway’s innovation economy relies upon. This is why a number of countries have challenged a comparable measure adopted in Australia that is currently the subject of a dispute at the World Trade Organization (WTO). Our concerns have been placed on the record of that proceeding.

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In light of these considerations, we respectfully request that Norway carefully consider the wider commercial implications for all industries that rely on strong and predictable trademark protection and forego this measure that would so drastically undermine intellectual property rights.

Sincerely,

Emergency Committee for American Trade (ECAT)  
National Association of Manufacturers  
National Foreign Trade Council  
Trans-Atlantic Business Council  
U.S. Chamber of Commerce  
U.S. Council for International Business

CCs:

The Honorable Anders Anundsen, Minister of Justice and Public Security  
The Honorable Monica Mæland - Minister of Trade and Industry  
The Honorable Børge Brende - Minister of Foreign Affairs  
The Honorable Vidar Helgesen - Minister of EEA and EU Affairs

## TRADEMARK ELIMINATION VIA PLAIN PACKAGING

We are writing to express our concerns regarding government-mandated trademark elimination via “plain packaging” measures.

Effective protection of intellectual property rights is an essential element of a thriving economy, generating jobs and growth by fostering competition and spurring innovation. Trademark protection is essential in identifying and distinguishing products in the marketplace. The protection of such property is a fundamental tenet of law whose vital importance is enshrined in domestic laws the world over as well as in several international agreements, including the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights and the Paris Convention on Industrial Property.

We recognize that governments have the authority to regulate when necessary to protect the public interest. Such measures should be consistent with fundamental tenets of law and international legal obligations. They should be proportionate, evidence-based and effective in achieving a specific purpose. They should be adopted after sober deliberation and careful consideration of the potential for unintended consequences. Plain packaging rules that mandate trademark elimination do not meet these standards. In fact, such measures currently are the subject of a WTO dispute settlement proceeding.

There are ways to regulate effectively in the public interest. Mandating destruction of intellectual property is not among them, and we urge governments to forego it.

### AMERICAS:

Council of the Americas

Argentina:

American Chamber of Commerce in Argentina

Brazil:

Brazilian Intellectual Property Association

National Confederation of Industry (CNI)

Canada:

Canadian Chamber of Commerce

Canadian Manufacturers & Exporters

Chile:  
American Chamber of Commerce in Chile

Ecuador:  
American Chamber of Commerce in Ecuador  
Chamber of Industries in Ecuador

Guatemala:  
Cámara de Comercio de Guatemala

Mexico:  
American Chamber of Commerce of Mexico  
ConMéxico

Panama:  
American Chamber of Commerce and Industry of Panama

Peru:  
American Chamber of Commerce in Peru  
Peruvian National Society of Industries

United States:  
American Farm Bureau Federation  
Emergency Committee for American Trade  
Global Brand Council  
Hellenic-American Chamber of Commerce  
National Association of Manufacturers  
National Foreign Trade Council  
Trans-Atlantic Business Council  
US-ASEAN Business Council  
US-Bahrain Business Council  
U.S. Chamber of Commerce  
United States Council for International Business  
US-Egypt Business Council  
US-GCC Business Initiative  
US-Iraq Business Initiative  
US-Israel Business Initiative  
US-Turkey Business Council

Uruguay:  
Cámara Nacional de Comercio y Servicios del Uruguay

## ASIA:

ASEAN Intellectual Property Association

China:

American Chamber of Commerce in South China

Indonesia:

American Chamber of Commerce in Indonesia

Indonesia-Thai Chamber of Commerce

Kazakhstan:

American Chamber of Commerce in Kazakhstan

Korea:

American Chamber of Commerce in Korea

European Chamber of Commerce in Korea

Federation of Korean Industries

Trade-related IPR Protection Association in Korea

Malaysia:

American Malaysian Chamber of Commerce

New Zealand:

American Chamber of Commerce in New Zealand

Russia:

American Chamber of Commerce in Russia

Singapore:

American Chamber of Commerce in Singapore

European Chamber of Commerce in Singapore (EuroCham)

Thailand:

American Chamber of Commerce in Thailand

European Association for Business and Commerce (EABC) - Thailand

Intellectual Property Association of Thailand (IPAT)

## EUROPE:

BUSINESSEUROPE  
EU-ASEAN Business Council  
European Landowners' Organization (ELO)  
ICC Business Action to Stop Counterfeiting and Piracy (BASCAP)  
Taxpayers Association of Europe (TAE)

Belgium:  
Federation of Enterprises in Belgium  
ICC Belgium  
NANAC Belgian Foundation No to Counterfeiting and Piracy

Bulgaria:  
American Chamber of Commerce in Bulgaria

Croatia:  
American Chamber of Commerce in Croatia  
Croatian Employers' Association (CEA)

Cyprus:  
American Chamber of Commerce in Cyprus

Czech Republic:  
Confederation of Industry of the Czech Republic  
Czech Association for Branded Products (CSZV)

Denmark:  
American Chamber of Commerce in Denmark  
Danish Chamber of Commerce  
Danish Small Shops' Association  
DI – Confederation of Danish Industry  
Food Workers' Union – NNF Denmark  
Graphic Association Denmark  
ICC Denmark

Estonia:  
American Chamber of Commerce in Estonia  
Estonian Patent Attorneys Association

France:

Association of Trade Mark and Design Law Practitioners, France  
Union des Fabricants, France

Finland:

American Chamber of Commerce in Finland  
Finnish Anti-Counterfeiting Group (FACG)

Germany:

American Chamber of Commerce in Germany  
German Anti-Counterfeiting Association (APM)  
Markenverband e.V. – The German Brands Association  
Zentralverband der deutschen Werbewirtschaft e.V. - German Advertising Federation

Greece:

American-Hellenic Chamber of Commerce  
Federation of Attica and Piraeus Industries  
Greek Association of Branded Products Manufacturers  
Hellenic Federation of Enterprises

Iceland:

Federation of Trade & Services  
Icelandic Federation of Trade (IFT)  
SA – Business Iceland

Italy:

American Chamber of Commerce in Italy  
Confindustria  
INDICAM

Kosovo:

American Chamber of Commerce in Kosovo

Lithuania:

American Chamber of Commerce in Lithuania  
American-Lithuanian Business Council  
Lithuanian Business Confederation  
Lithuanian Confederation of Industrialists

Luxembourg:

Fedil - Business Federation Luxembourg

Macedonia:

American Chamber of Commerce in Macedonia

Montenegro:

American Chamber of Commerce in Montenegro  
Montenegrin Employers Federation

Netherlands:

American Chamber of Commerce in the Netherlands  
Confederation of Dutch Industry and Employers (VNO-NCW)  
ICC Netherlands

Norway:

American Chamber of Commerce in Norway  
Federation of Norwegian Food and Drink Industry  
Grocery Manufacturers of Norway  
ICC Norway  
NHO Retail and Wholesale  
Norwegian Advertisers' Association (ANFO)  
Norwegian Anti Counterfeit Group (NACG)  
Norwegian Association for Small and Medium-sized Enterprises (NASME)  
Oslo Retail Association  
Virke, Convenience and Grocery Trade (Norway)

Poland:

American Chamber of Commerce in Poland  
Polish Chamber of Trade  
Polish Confederation Lewiatan  
Pracodawcy Rzeczypospolitej Polskiej – Employers of Poland

Portugal:

Portuguese Industrial Association – Chamber of Commerce and Industry (AIP-CCI)

Romania:

National Association of Small and Medium Retailers of Romania

Serbia:

American Chamber of Commerce in Serbia  
Chamber of Commerce and Industry of Serbia



Slovak Republic:  
American Chamber of Commerce in the Slovak Republic

Slovenia:  
American Chamber of Commerce in Slovenia

Spain:  
American Chamber of Commerce in Spain  
Asociación Nacional para la defensa de la Marca (ANDEMA)  
Confederación Española de Organizaciones Empresariales (CEOE)  
ICC Spain

Sweden:  
American Chamber of Commerce in Sweden  
Association of Swedish Advertisers  
IFS – International Entrepreneurs Association in Sweden  
NDM – Swedish Business Committee on Market Law  
Stockholm Chamber of Commerce  
Sweden-Israel Chamber of Commerce  
Swedish Chamber of Commerce of East Sweden  
Swedish Graphic Companies' Federation  
Swedish Marketing Federation  
Swedish National Association for Convenience Stores and Fast Food  
UNDEXO

Switzerland:  
economiesuisse  
Promarca – Swiss Association of Branded Goods  
Swiss-Arab Chamber of Commerce and Industry (CASCI)

United Kingdom:  
BritishAmerican Business  
British-American Business Council  
ICC United Kingdom

Ukraine:  
US-Ukraine Business Council (USUBC)

## MIDDLE EAST & AFRICA

Israel:

Federation of Israeli Chambers of Commerce

Jordan:

American Chamber of Commerce in Jordan

Morocco:

American Chamber of Commerce in Morocco

Senegal:

American Chamber of Commerce in Senegal

South Africa:

South African Chamber of Commerce & Industry

Tunisia:

Tunisian Intellectual Property Observatory (TIPO)

Turkey:

Aegean Tobacco Exporters Association

Turkish American Business Association/AmCham

Turkish Patent and Trademark Attorneys' Association

United Arab Emirates:

Brand Owners Protection Group (BPG) - GCC & Yemen

*May 27, 2015*