



Amcor GmbH

*Submission to the
Norwegian Government
Consultation on
Standardised Packaging*

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Executive Summary

Amcor is a global leader in responsible packaging solutions supplying rigid and flexible packaging products to the food, beverage, healthcare, tobacco, home and personal care industries. With over 150 years of history and experience supplying thousands of customers across 43 jurisdictions, we are pleased to share our tobacco packaging expertise and insights as part of this consultation. We make this submission as an independent packaging manufacturer and standalone, publicly traded company representing our own high standards on responsible packaging.

Packaging plays an important role in society. Amcor's applied corporate values focus on the core theme of 'responsible packaging' - i.e. packaging's ability to "protect, inform, perform". In other words, the ability of packaging to ensure product safety and integrity, inform and educate the consumer, and deliver performance features that enhance the product itself. As the global leader in consumer packaging, and in line with our strong commitment to responsible packaging, Amcor is in a unique position to provide qualified and fact-based feedback to the Norwegian Government (henceforth "the Government") on the practical implications of the proposed policy.

Amcor fully supports the objectives of the Government to improve public health by reducing the harmful effects of smoking. We understand that the Ministry of Health's overall objective of standardised packaging is to reduce the number of children who begin smoking, in order to protect them from the harmful effects of tobacco use, as well as reducing the use of tobacco among adults by helping people to quit smoking.

Amcor has major concerns around the current draft legislative changes and believes that standardised packaging will lead to dangerous consequences. We provide fact-based evidence as part of this submission to support our view that creating a standardised approach to tobacco packaging in Norway would result in an escalation of trade in illicit and counterfeit tobacco products¹. We believe that these dangerous consequences would defeat the purpose of the proposed legislation, as lack of differentiation between genuine and fake cigarette packaging would lead to tobacco products becoming cheaper on average, easier to purchase, access, and copy, which ultimately puts public health, and specifically children, at risk.

We strongly believe that packaging differentiation and complexity is the best natural deterrent against illicit tobacco trade. Operating within parameters set by the Government; this implies differentiated branding on tobacco packaging in combination with highly complex print features that alternate on a regular basis.

Given the inconclusive evidence around the public health benefits of Australia's standardised packaging implementation versus the well documented health risks related to counterfeit products, Amcor believes that standardised packaging should not be implemented. We recommend that the Government should rather focus on a solution that maintains, if not increases, the level of packaging complexity, including security, brand and design features that can be changed on a regular basis. This would act as a more effective shield against the criminal organisations driving illicit tobacco trade.

Amcor is willing and ready to work with the Ministry of Health and Care Services on understanding the impact of various options available for implementing tobacco packaging regulations. Amcor is a longstanding member of leading industry bodies such as the European Carton Makers Association (ECMA) that have an established track record of supporting policy solutions, working with a range of national governments and European Union institutions.

¹ Although Amcor usually observes the technical differences between the industry terms 'illicit whites', 'contraband' and 'counterfeit cigarettes', this submission uses the terms 'counterfeit', 'contraband' and 'illicit' interchangeably. This submission also focuses on illicit trade via the smuggling of cigarettes, rather than domestic creation of counterfeit cigarettes.

Introduction

Amcor appreciates the opportunity to respond to the Government's consultation. This submission aims to provide evidence that standardised packaging would have the following negative consequences:

1. **Rise of illicit trade:** standardised packaging lowers barriers of entry into the tobacco market, leading to *de facto* creation of scale benefits for criminal organisations trading in counterfeit tobacco, as seen in the case of Australia
2. **Greater health risks:** counterfeit tobacco exposes consumers to hazardous ingredients of unknown origin
3. **Misinformed consumers:** standardised packaging limits the ability of consumers to authenticate and differentiate between legitimate and illicit tobacco products

In addition to explaining these three issues, we would also like to present findings from our Post Implementation Review of Plain Packaging in Australia, researched by Amcor on request from the Australian Government in February 2015. This data provides strong examples of the risks outlined above and is included in Section 4, 'Further evidence from Australia'.

1. Rise of illicit trade

To successfully combat illicit trade, and especially counterfeit products, the Government must limit the incentives for criminal organisations to engage in illicit trade. Such incentives are created through (i) above-average excise taxes that push consumers to purchase cheaper products, coupled with (ii) lower packaging entry barriers that make it easier to counterfeit tobacco products. According to non-partisan industry expert Euromonitor, Norway's illicit tobacco market has increased by more than 25% since 2010², partly on account of the high price of tobacco in comparison to surrounding countries³.

In our expert opinion, the printing technologies and assets used to manufacture standardised tobacco packaging are considerably less sophisticated and capital intensive than assets required for complex tobacco packaging. Hence, packaging complexity sets a high barrier of entry for counterfeiters.

To illustrate, Amcor produces complex tobacco packaging on high quality, Swiss and German-made gravure machinery, which are operated by experts with decades of experience in the printing industry. To match these world class assets and capabilities, criminal organisations would have to commit to an upfront investment of at least 120 million Norwegian krone, as well as basic tooling costs of >300,000 krone for every new pack design⁴.

² Euromonitor International Tobacco data, 6th June 2015

³ In January 2015, Norway had a average cigarette pack price of EUR11.02, almost double that of Sweden, and more than triple that of Eastern European countries such as Poland (EUR 3.07) and Romania (EUR 2.94)

⁴ This figure reflects tooling costs for printing cylinders, embossing cylinder, die-cutting and creasing equipment

After the printing process, further complexity is added through a range of other processes which, when in combination, are particularly difficult to counterfeit:

- **Embossing:** A 'male' embossing plate with a crest or a logo is pressed down on to the substrate, while at the same time a 'female' counter plate is fixed underneath the substrate. This results in a shaped three dimensional image on the packaging.
- **Foil stamping:** metallic materials (commonly aluminium) are lifted off a roll and applied to the carton board substrate in the required design. This applies a unique look to premium products or it can be used to coat entire folding carton blanks.
- **Varnishes and lacquers:** applied at the end of the printing process using one of three different technologies: (a) solvent-based with drying by evaporation of solvents; (b) water-based with drying by evaporation of water; (c) inert UV cured with drying by UV wave light. This protective layer ensures that printed colours are protected from mechanical impacts such as scratches, and that the final product is protected from inks and other chemicals.
- **Cutting and creasing:** a die is created which has both cutting blades (that slice through the carton board) together with creasing blades (with blunted ends), which are used to create flat 'carton blanks' i.e. non-assembled cartons.

Standardised packaging would typically remove the requirements for this type of high quality machinery, as the simplified design (i.e. no varnish, no embossing, or foil stamping, etc.) can be run on less complex machinery, such as a digital printer. Standardised cigarette packaging would therefore lower the bar for replicating cigarette packs and expose Norway to counterfeiters that would target the country with illicit and hazardous products.⁵

2. Greater health risks, especially for the young

2.1 Risks of counterfeit products on public health

Amcor firmly believes that standardised packs will lead to a significant increase in counterfeit availability, which represents increased health risks, especially for under-aged consumers, who will find it even more difficult to differentiate legal from illicit products.

In an investigation by the BBC, illegal cigarettes bought by researchers were scientifically tested and reported to have the highest levels of toxins recorded in the UK to date. The cigarettes contained 30 times more lead than the average legal cigarette, meaning that a 'pack-a-day' smoker would inhale the equivalent of 600 cigarettes in just 24 hours⁶.

⁵ For more detail on complex printing technologies, please refer to section 4.4 of Amcor's submission to the Department of Health on 9 August 2012

⁶ BBC: *The BBC exposes tobacco crime gangs*; 18th January 2011

As stated by the Center for Regulatory Effectiveness, Washington D.C., a great percentage of these products are created in Asia, where they are produced cheaply before being imported into Western Europe⁷. The following statement, taken from a report by the Chinese government tobacco Monopoly Bureau in Shandong, describes the products involved in the creation of illicit cigarettes:

*Many counterfeit cigarettes manufacturers use [...] inferior quality products, even waste or contaminated waste products. Studies show that counterfeit cigarette combustion will produce a large quantity of 3.4-benzopyrene and other carcinogenic substances. Counterfeit cigarettes contain “bemisias tabaci” eggs that, once inhaled, will be like “pork tapeworm” as chronic parasitic in humans.*⁸

To inform and protect the general public from the risks of such counterfeit products, Amcor believes that tobacco packaging should clearly differentiate legal and authentic product from counterfeit product. This can be achieved through increased feature differentiation, allowing for unique security and branding features that could be further enhanced through frequent design changes.

2.2 Potential for particular health risk to underage smokers

Amcor is aware that the Ministry of Health and this policy are especially focused on the wellbeing of children and limiting the uptake of smoking by the under aged. The under-aged – and especially first-time smokers - are significantly less likely to be aware of the differences between illicit products and those sold by a licensed vendor. Simultaneously, younger people who either earn less, or are not yet employed, are more likely to be price sensitive. Therefore the lack of pack complexity characteristic of standardised packaging, coupled with a lack of disposable income, establishes a dangerous link between the under-aged and illicit tobacco products.

This is aligned with data found in The Hughes Study, published in the European Journal of Public Health, which shows that counterfeit cigarettes are a significant source of tobacco for underage smokers. It states,

*‘... many relied on friends and family to obtain cigarettes, and had bought foreign, fake or single cigarettes; methods of access that are much harder to control through government intervention.’*⁹

As stated by the same report,

‘This gives cause for concern; such products are more affordable than commercial cigarettes for young people on restricted incomes, and fake cigarettes are known to contain higher levels of tar, nicotine and carbon monoxide, as well as high toxic metal concentrations that could be damaging to health.’

⁷ Center for Regulatory Effectiveness, The Countervailing Effects of Counterfeit Cigarettes, July 2011

⁸ Shandong Provincial Tobacco Monopoly Bureau, Cigarette Counterfeiting, *Problems and Thoughts on Countermeasures*, 28th March 2011

⁹ The Hughes Study, Smoking behaviours, access to cigarettes and relationships with alcohol in 15- and 16-year-old schoolchildren in North West England, European Journal of Public Health, 9th February 2010, p.5

Amcor remains confident that a higher level of packaging differentiation and complexity is required to effectively safeguard the tobacco market against illicit trade. Since standardised packaging removes these safeguards, the consequential rise of illicit products in the market puts consumer health at risk.

3. Misinformed consumers

As packaging experts, we are aware that one of the key roles of packaging is to ensure consumers can recognise the authenticity of a product. The purpose of packaging complexity is to protect those consumers who aim to purchase legal tobacco, and to provide them with their right as a consumer to distinguish illegal from genuine products. In Australia, standardised packaging is already creating authentication issues with legal tobacco, as,

‘Severe measures [i.e. standardised packaging] make it more difficult and confusing for consumers to purchase cigarettes and other tobacco products’¹⁰,

The introduction of standardised packaging has in effect removed the ability to differentiate between high and low quality products. Amcor believes that this automatically exacerbates consumers’ difficulty to authenticate genuine from counterfeit products. As a proponent of responsible packaging, we believe that the legislation, rather educating consumers, will directly hinder:

- Consumers’ ability to verify authenticity of the product
- Manufacturers’ ability to include anti-counterfeiting cues
- Enforcement authorities’ ability to recognise counterfeit versus duty paid products

4. Further evidence from Australia

4.1 Illicit tobacco evidence in Australia

In their 2013 Annual Report, the Australian Customs and Border Protection Service (ACBPS) showed a significant increase in number of sea detections of illicit tobacco, specifically in the form of cigarette sticks:

Table: Tobacco Detections in Sea Cargo, ACBPS Service¹¹

	2011-2012	2012-2013
Number of detections	45	76
Loose tobacco (tonnes)	177	183
Cigarettes (mn sticks)	141	200

¹⁰ Euromonitor International Analysis, *Tobacco Packaging in Australia*, June 2014

¹¹ Australian Customs and Border Protection Service – Annual Report 2012-2013

As these figures account for 99% of all illicit trade detections in Australia annually, this demonstrates that after the introduction of standardised packaging, the total number of detections increased by 69% year-on-year, with the number of illicit cigarettes discovered increasing by 42%. As the ACBPS describes, the increase in detections of illicit cigarettes is particularly prominent due to,

'the more immediate return on investment available from cigarettes in comparison to loose-leaf tobacco, which often requires further processing.'

Amcor believes that the ability for illegal tobacco syndicates to import dangerous cigarettes has, and will continue to be, exacerbated by the introduction of standardised packaging. The most recent example refers to packs reportedly printed by a Chinese counterfeiter, made to emulate well-known British American Tobacco brands in standardised packaging for the first time¹².

Euromonitor International also states that illicit sales of tobacco represent a 'key threat' over the next five years in Australia, with, 'demand for cheaper, counterfeit cigarettes expected to accelerate'. They forecast that illicit trade volume is expected to rise with a compound annual growth rate of at least 5% until 2019¹³.

During our review of the Australian market, Amcor also understands that another unforeseen side effect has arisen: cigarettes packed in illegal, low quality, brightly coloured packs are now consumed more than ever. Smokers either falsely assume these packs are genuine products legally imported from other countries, or they understand the illegal nature of the product, but value the 'vintage' appeal of the branded packs. This is evidenced by the illegal tobacco importation ring uncovered in Victoria in 2013, leading to the seizure of 71 tonnes of tobacco and 81 million illicit cigarettes¹⁴ - all of which were in brightly coloured, non-standardised packaging¹⁵.

This suggests that the introduction of standardised packaging has increased the relative attractiveness of the Australian market for organised criminal gangs – who can now elicit profits in two separate ways: through simplified, cheaper mimicry of standardised packaging or through offering colourful branded packs.

Lastly, if other European countries opt for regulation allowing higher levels of pack complexity, Norway will become a 'soft entry point' for criminal organisations. Through the introduction of standardised packaging, Norway will house a tobacco market which does not have the added security of differentiated, constantly changing pack designs like those in surrounding countries. As a result, Norway will become one of the most attractive tobacco markets for counterfeiters due to the lower packaging complexity standards.

¹² Business section, The Rakyat Post, Plain packs foster smuggling: Sydney, February 20th 2015

¹³ Euromonitor International, *Cigarettes in Australia*, August 2014

¹⁴ Victorian Government website 'Health Victoria', *Fines quadrupled in clamp on illicit tobacco*, February 2014

¹⁵ Australian Federal Police Media Release: *Trident Taskforce shuts down multi-million dollar tobacco importation syndicate*, October 2013

4.2 Smoking rates do not appear to be impacted by standardised packaging

As the leading global packaging supplier to the tobacco segment, we review regulatory developments across the world in concordance with their long-term effects. This provides a more realistic picture of ingrained or habitual consumer actions that shape a market, rather than 'one-off' or highly contextual dynamics.

Tobacco market data from Euromonitor International, currently shows a continuation of around 3-4% decline in Australia every year from 2011 until 2014, and specifically shows 25% less decline in 2013 compared to 2012, after standardised packaging was first introduced. It also marks a slower rate than from 2009-2010 and 2010-2011, which were 7% and 4% declines respectively¹⁶. Proponents of standardised packaging continue to argue that declines in smoking rate are proof of its success; however, the last three years of either slowing or similar year-on-year declines is evidence that serves to negate this argument.

Moreover, this recent period coincides with continual excise tax increases, including one of the largest tobacco price hikes in Australian history when excise taxes rose by 25% in April 2010. Given the price elasticity observed and documented in several countries, such as Russia, decreased smoking rates in Australia are clearly driven by such ongoing excise tax increases, rather than the implementation of standardised packaging. This is documented in, 'over 100 published studies [...] that clearly demonstrate that changes in cigarette prices, resulting from changes in taxes [...] lead to changes in cigarette smoking'¹⁷, according to the law of the downward sloping demand curve¹⁸.

Rather than the legislation effecting smoking rates as intended, it appears to have changed tobacco buying habits. Indeed, as the Norwegian Government's consultation document states,

'[Standardised packaging in Australia] does not appear to have had any negative impact on general sales and purchases'¹⁹,

Consumers are buying the same amount of tobacco, but in bulk quantities in order to, 'save the difficulty involved in purchasing tobacco'²⁰. This difficulty is due to the confusion created at the point of sale by the consumer's inability to differentiate between brands. Market data shows that the 40 cigarette carton packaging saw its share increase from 8% in 2011 to 10% in 2013, whilst 25 cigarette cartons saw a decline from 50% to 45%²¹. Therefore, even though consumers may purchase cigarettes less frequently, they purchase larger pack sizes when they do.

Amcor believes that any review of standardised packaging measures must take into consideration that according to market data, smoking rates have continued to decline at the same rate (or slower) than in previous years, therefore suggesting there has been no specific impact from the standardised packaging regulation²².

¹⁶ Euromonitor Statistics, February 2015

¹⁷ Chaloupka et al., British Medical Journal, Tobacco control, *Tax, price and cigarette smoking*, 2002;

11 (Suppl I): i62-i72

¹⁸ ¹⁸ i.e. That as price increases, demand will decrease, and vice versa

¹⁹ p.26, paragraph 3.4: Research on the effects of standardised tobacco packaging

²⁰ Euromonitor International, *Tobacco Packaging in Australia*, June 2014

²¹ Ditto as above

²² Also supported by evidence in the Australian National University's paper: *The Plain Truth about Plain Packaging*, ANU Press, Volume 21, Number 1, 2014

Summary

To conclude, Amcor does not believe that the introduction of standardised packaging will safeguard consumers, thus not meeting the objectives of the proposed legislation. Instead, it may have serious negative consequences such as:

- **Rise of illicit trade:** standardised packaging lowers barriers of entry into the tobacco market, leading to *de facto* creation of scale benefits for criminal organisations trading in counterfeit tobacco
- **Greater health risks:** counterfeit tobacco exposes consumers to hazardous ingredients of unknown origin
- **Misinformed consumers:** standardised packaging limits the ability of consumers to authenticate and differentiate between legitimate and illicit tobacco products

Amcor also does not believe that the tobacco standardised packaging measure in Australia has been effective or efficient in meeting its objectives. In fact, consumers do not seem to be affected by standardised packaging, as the smoking rate decline has not noticeably changed since the introduction of the legislation. Instead, consumers buy in bulk to avoid confusion at the point of sale.

In parallel, standardised packaging undermines the intended health objectives of the Norwegian Government by increasing consumers' exposure to the health risks associated with illicit tobacco. As well as significantly weakening consumers' and enforcement authorities' ability to differentiate genuine from illegal products, it invites organised criminal gangs to profit from the sales of counterfeit goods. Finally, may also have various unintended consequences on the retail and packaging industries. We therefore do not believe that standardised packaging is a responsible anti-smoking measure.

Amcor has an established track record of informing and working with national governments and European Union institutions on packaging policy. In the context of standardised tobacco packaging, we want to ensure that the Norwegian Government is fully aware of the risks posed by the proposed policy. Amcor would be pleased to work alongside the Ministry of Health and Care Services in order that future tobacco packaging regulations are safe, effective, and aligned with the objectives of Government.